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Entity Details

File Number:	673309	Incorporation Date / Formation Date:	2/28/1968 (mm/dd/yyyy)
Entity Name:	CRUCIBLE STEEL CORPORATION		
Entity Kind:	Corporation	Entity Type:	General
Residency:	Domestic	State:	State:
Status:	Merged	Status Date:	10/17/1968

TAX INFORMATION

Last Annual Report Filed:	Tax Due: \$
Annual Tax Assessment: \$	Total Authorized Shares:

REGISTERED AGENT INFORMATION

Name:	THE CORPORATION TRUST COMPANY		
Address:	CORPORATION TRUST CENTER 1209 ORANGE ST		
City:	WILMINGTON	County:	New Castle
State:	DE	Postal Code:	19801
Phone:	302-658-7581		

FILING HISTORY (Last 5 Filings)

Seq	Description	No. of pages	Filing Date (mm/dd/yyyy)	Filing Time	Effective Date (mm/dd/yyyy)
1	Merger; Non-Survivor [Non-Survivor] [Survivor Name] COLT INDUSTRIES INC.	37	10/17/1968	3:20 PM	10/17/1968
2	Merger CRU DEL CORPORATION [Survivor]	20	4/29/1968	4:30 PM	4/29/1968
3	Stock Corporation	9	2/28/1968	9:00 AM	2/28/1968

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TO THE CORPORATION BUREAU
Department of State,
Commonwealth of Pennsylvania:

In compliance with the requirements of Article IX of the Business Corporation Law (Act of the General Assembly of the Commonwealth of Pennsylvania approved May 5, 1933, P.L. 364, as amended), these Articles of Consolidation, whereby Colt Industries Inc, a Pennsylvania corporation, and Crucible Steel Corporation, a Delaware corporation (the "constituent corporations"), will be consolidated to form Colt Industries Inc, a Delaware corporation (the "new corporation"), state as follows:

(1) Colt Industries Inc, the new corporation, will be a business corporation incorporated under the laws of the State of Delaware. The location and post-office address of its office registered in Delaware will be No. 100 West Tenth Street, in the City of Wilmington, County of New Castle, Delaware, and of its registered office in Pennsylvania will be c/o CT Corporation System, 123 South Broad Street, Philadelphia, Philadelphia County, Pennsylvania 19109.

(2)(a) Colt Industries Inc, one of the constituent corporations, is a business corporation incorporated under the laws of the Commonwealth of Pennsylvania, and the location and post-office address of its registered office are c/o CT Corporation System, 123 South Broad Street, Philadelphia, Philadelphia County, Pennsylvania 19109.

(b) Crucible Steel Corporation, one of the constituent corporations, is a business corporation incorporated under the laws of the State of Delaware qualified to do business as a foreign business corporation in the Commonwealth of Pennsylvania, and the

location and post-office address of its registered office in Pennsylvania are Oliver Building, Mellon Square, c/o CT Corporation System, Pittsburgh, Pennsylvania 15222.

(3) The Plan and Agreement of Consolidation referred to below provides in Section 1.04 thereof that the consolidation of the constituent corporations into the new corporation shall be effective at the close of business on the day when the filing of appropriate Articles of Consolidation pursuant to Section 905 of the Pennsylvania Business Corporation Law and the filing and recording of the said Plan and Agreement of Consolidation pursuant to Section 252(c) of the Delaware General Corporation Law shall have been completed, which is October 17, 1968.

(4)(a) The Plan and Agreement of Consolidation referred to below was approved and adopted by the shareholders of Colt Industries Inc at a meeting thereof duly called and held on October 15, 1968 by the requisite percentage of votes of the holders of the class or classes of securities of Colt Industries Inc shown below, being the only classes of securities of Colt Industries Inc outstanding and entitled to vote:

Class or classes of securities of Colt Industries Inc	Shares outstanding on September 13, 1968, the record date for the determination of shareholders entitled to notice of and vote at meeting	Shares voted in favor	Shares voted against
Preferred stocks of all classes and Common Stock, voting together (majority vote required)	4,415,788	<u>3,289,248</u>	<u>18,991</u>
Common Stock, voting as a class (majority vote required)	3,900,760	<u>2,898,318</u>	<u>12,218</u>

\$1.60 Cumulative Convertible Pre- ferred Stock, voting as a class (two-thirds vote required)	367,481	<u>266,610</u>	<u>2,295</u>
Serial Cumulative Pre- ferred Stock, 4 1/2% Convertible Series and 4 1/4% Convertible Series, voting together as a class (two-thirds vote required)	147,547	<u>124,320</u>	<u>4,478</u>

(b) The Plan and Agreement of Consolidation was approved and adopted by the shareholders of Crucible Steel Corporation, a Delaware corporation and one of the constituent corporations, at a meeting thereof duly called and held on October 17, 1968 in accordance with the laws of the State of Delaware.

(5) The Plan and Agreement of Consolidation, dated as of August 15, 1968, between Colt Industries Inc and Crucible Steel Corporation (including the Certificate of Incorporation of the new corporation, attached to the Plan and Agreement of Merger as Appendix A thereto), is attached hereto as Annex "A", and is hereby incorporated by reference as though fully set forth herein.

(6) Colt Industries Inc, the new corporation, which is to be a foreign corporation (incorporated under the laws of the State of Delaware), hereby designates the Secretary of the Commonwealth of Pennsylvania and his successor in office as the true and lawful attorney of such corporation upon whom may be served all lawful process in any action or proceeding against it for enforcement against it of any obligation of Colt Industries Inc,

a Pennsylvania corporation, or any obligation arising from the consolidation proceedings or any action or proceeding to determine and enforce the rights of any shareholder under the provisions of Section 908 of the Act of May 5, 1933, P.L. 364, and hereby agrees that the service of process upon the Secretary of the Commonwealth shall be of the same legal force and validity as if served on such corporation and that the authority for such service of process shall continue in force as long as any of the aforesaid obligations and rights remain outstanding in this Commonwealth.

IN TESTIMONY WHEREOF, Colt Industries Inc and Crucible Steel Corporation, the constituent corporations, have caused these Articles of Consolidation to be executed under the seal of each such corporation and signed by two duly authorized officers of each such corporation, this 17th day of October, 1968.

[CORPORATE SEAL]

COLT INDUSTRIES INC

By *James P. Mangels*
President

By *William J. H. H. H.*
Secretary

[CORPORATE SEAL]

CRUCIBLE STEEL CORPORATION

By *Robert L. Anderson*
President

By *William J. H. H. H.*
Secretary

PLAN AND AGREEMENT OF CONSOLIDATION dated as of August 15, 1968, between COLT INDUSTRIES INC, a Pennsylvania corporation ("Colt"), and CRUCIBLE STEEL CORPORATION, a Delaware corporation ("Crucible").

WITNESSETH:

WHEREAS, the Board of Directors of Colt and Crucible (the "Constituent Corporations"), respectively, have deemed it advisable and for the benefit of the Constituent Corporations and their stockholders that Colt and Crucible be consolidated into a new Delaware corporation formed by the consolidation (the "Consolidation") on the terms herein set forth and have approved this Plan and Agreement of Consolidation (the "Consolidation Agreement");

WHEREAS, prior to the Consolidation, all or substantially all the property of Crucible is to be transferred to Cru Colt Corporation, a Delaware corporation ("Cru Colt"), all the outstanding capital stock of which will be owned by Crucible, all as more fully provided in the agreement dated as of August 15, 1968 (the "Three-Party Agreement") among Colt, Crucible and Cru Colt;

WHEREAS, Colt is duly organized and existing as a corporation under the laws of the Commonwealth of Pennsylvania, having been incorporated on November 11, 1911, under the name "Pennsylvania Coal and Coke Corporation";

WHEREAS, Crucible is duly organized and existing as a corporation under the laws of the State of Delaware, having been incorporated on February 28, 1968, under the name "Cru Del Corporation";

WHEREAS, Central Transformer Inc ("CTI"), which shall be organized in Delaware as a wholly-owned subsidiary of Colt, and Central Transformer Corporation, an Arkansas corporation ("Central"), propose to enter into a Plan and Agreement of Merger to be dated as of September 25, 1968 (the "Merger Agreement"), providing for the merger (the "Merger") of Central into CTI;

WHEREAS, the Merger Agreement will provide further that (i) if the Merger shall be consummated prior to the Consolidation, the stockholders of Central will receive capital stock of Colt in exchange for capital stock of Central and if the Consolidation shall thereafter be consummated, such shares of capital stock of Colt shall be exchanged in the Consolidation for capital stock of the Consolidated Corporation (as hereinafter defined) and (ii) if the Merger shall be consummated subsequent to the Consolidation, the stockholders of Central will receive capital stock of the Consolidated Corporation in exchange for the capital stock of Central;

WHEREAS, as of August 1, 1968, the authorized capital stock of Colt consisted of (a) 367,481 shares of \$1.60 Cumulative Convertible Preferred Stock, par value \$40 per share ("Colt \$1.60 Preferred Stock"), of which 367,481 shares had been issued and were outstanding, (b) 148,542 shares of Serial Cumulative Preferred Stock, par value \$100 per share, issuable in series, of which (i) 66,712 shares of the first series, designated Cumulative Preferred Stock, 4½% Convertible Series ("Colt 4½% Preferred Stock"), had been issued and were outstanding, and (ii) 81,830 shares of the second series, designated Cumulative Preferred Stock, 4¼% Convertible Series (1968) ("Colt 4¼% Preferred Stock"), had been issued and were outstanding, (c) 500,000 shares of Serial Cumulative Preferred Stock, par value \$1 per share, none of which had been issued or was outstanding but of which 68,046 shares may be issued pursuant to the Merger Agreement, and if so issued, will constitute the first series of such class, designated "Cumulative Preferred Stock, \$2.75 Series A (the "Colt \$2.75 Preferred Stock"), and (d) 9,000,000 shares of Common Stock, par value \$3 per share ("Colt Common Stock"), of which (i) 3,893,234 shares had been issued and were outstanding (exclusive of 58,905 shares held in the treasury of Colt), (ii) 826,807 shares were reserved for issuance upon conversion of the outstanding shares of Colt \$1.60 Preferred Stock, Colt 4½% Preferred Stock and Colt 4¼% Preferred Stock and upon conversion of the outstanding

5 1/2% Convertible Subordinated Debentures, due June 1, 1972, of Fairbanks, Morse & Co. ("Fairbanks Morse Debentures"), and upon the exercise of the options outstanding under the stock option plans and obligations of Colt referred to in Section 2.03 and (iii) additional share, may be issued pursuant to the Merger Agreement; at August 1, 1968, except for the above-mentioned convertible securities and outstanding options, Colt was not a party to any agreement or commitment to issue any shares of its capital stock; and since August 1, 1968, Colt has not issued or entered into any agreement or commitment to issue any shares of its capital stock, except that (A) Colt may have issued shares of Colt Common Stock since such date upon conversion of the convertible securities or upon the exercise of the outstanding stock options referred to in this paragraph, (B) Colt may have entered into stock option agreements with certain of its employees covering an aggregate of 32,000 additional shares of Colt Common Stock and (C) Colt and Central have entered into a letter agreement dated August 20, 1968, providing for the Merger and which anticipates the execution and delivery of the proposed Merger Agreement and a related proposed Three-Party Agreement to be dated as of September 20, 1968, among Colt, Central and CTI; and

WHEREAS, as of August 1, 1968, the authorized capital stock of Crucible consisted of (a) 2,000,000 shares of Preferred Stock, without par value, none of which had been issued or were outstanding, and (b) 15,000,000 shares of Common Stock, par value \$10 per share ("Crucible Common Stock"), of which (i) 4,287,002 shares had been issued and were outstanding, and (ii) 98,750 shares were reserved for issuance upon the exercise of the options outstanding under the stock option plans of Crucible referred to in Section 2.07; at August 1, 1968, except for the above-mentioned outstanding options, Crucible was not a party to any agreement or commitment to issue any shares of its capital stock; and since August 1, 1968, Crucible has not issued or entered into any agreement or commitment to issue any shares of its capital stock, except shares of Crucible Common Stock which may have been issued since said date upon exercise of the outstanding options referred to in this paragraph.

Now, THEREFORE, Colt and Crucible hereby agree that, pursuant to the applicable statutes of Pennsylvania and Delaware and subject to the conditions herein set forth, Colt and Crucible shall be consolidated into a new Delaware corporation formed by the Consolidation, and that the plan, terms and conditions of the Consolidation shall be as follows:

ARTICLE I

1.01. *The Consolidation.* At the Effective Time (as defined in Section 1.04) of the Consolidation, Colt and Crucible shall be consolidated into Colt Industries Inc, a new Delaware corporation (the "Consolidated Corporation") formed by the Consolidation, and thereupon the separate corporate existence of Colt and Crucible shall cease.

1.02. *Certificate of Incorporation of Consolidated Corporation.* The Certificate of Incorporation of the Consolidated Corporation shall be the Certificate of Incorporation attached hereto as Appendix A, and all the terms and provisions thereof are hereby incorporated in this Agreement and made a part hereof with the same force and effect as if herein set forth in full. After the Effective Time of the Consolidation and until amended as provided by law, Appendix A, separate and apart from this Agreement, shall be, and may be separately certified as, the Certificate of Incorporation of the Consolidated Corporation.

1.03. *By-Laws of Consolidated Corporation.* The By-Laws of Crucible as in effect immediately prior to the Effective Time shall be and continue to be the By-Laws of the Consolidated Corporation until further amended in accordance with law.

1.04. *Effective Time of Consolidation.* This Agreement shall be submitted to the stockholders of each of the Constituent Corporations for adoption or approval by them at meetings which shall be held

on or before October 15, 1968, or such other date or dates as the Boards of Directors of both the Constituent Corporations shall approve. If the conditions specified in Sections 5.01 and 5.02 (in each case unless waived as provided therein) shall have been satisfied and this Agreement shall not have been terminated pursuant to Section 6.01, appropriate Articles of Consolidation shall be filed pursuant to Section 905 of the Pennsylvania Business Corporation Law and simultaneously therewith (or as soon as may be) this Agreement shall be filed and recorded pursuant to Section 252(c) of the Delaware General Corporation Law, and the Consolidation shall become effective at the close of business on the day when such filings in Pennsylvania and Delaware have been completed. The time of the first such filing pursuant to the laws of Pennsylvania or Delaware and the time of such effectiveness are herein-after called the "Filing Time" and the "Effective Time", respectively.

1.05. Effect of Consolidation. At the Effective Time, the Consolidated Corporation without further action shall succeed to, possess and enjoy all the property of the Constituent Corporations and all debts due to the Constituent Corporations shall be taken and deemed to be transferred to and vested in the Consolidated Corporation without further act or deed, and the Consolidated Corporation shall thenceforth be responsible for all the liabilities and obligations of the Constituent Corporations, all as provided by the laws of Pennsylvania and Delaware. At any time or from time to time after the Effective Time the last acting officers of the Constituent Corporations shall, in the respective names of the Constituent Corporations, execute and deliver all such proper deeds, assignments and other instruments, as the Consolidated Corporation may deem necessary or desirable in order to vest, perfect or confirm the Consolidated Corporation's title to and possession of all property, rights, privileges, powers, franchises, immunities and purposes of the Constituent Corporations and otherwise to carry out the purpose of this Agreement.

1.06. Capitalization of Consolidated Corporation. At the Effective Time, the authorized capitalization of the Consolidated Corporation (as more fully set forth in Article Fourth of Appendix A hereto) will consist of (a) 3,000,000 shares of Serial Preferred Stock, par value \$1 per share ("New Preferred Stock"), issuable in series, and (b) 15,000,000 shares of Common Stock, par value \$1 per share ("New Common Stock"); and the first five series of New Preferred Stock will be comprised of: (i) 367,481 shares of \$1.60 Cumulative Preferred Stock, Convertible Series A (\$40 involuntary liquidation preference) ("New Series A Stock"); (ii) 66,712 shares of \$4.50 Cumulative Preferred Stock, Convertible Series B (\$100 involuntary liquidation preference) ("New Series B Stock"); (iii) 81,830 shares of \$4.25 Cumulative Preferred Stock, Convertible Series C (\$100 involuntary liquidation preference) ("New Series C Stock"); (iv) 782,633 shares of \$4.25 Cumulative Preferred Stock, Convertible Series D (\$100 involuntary liquidation preference) ("New Series D Stock"); and (v) \$2.75 Cumulative Preferred Stock, Series E (\$55 involuntary liquidation preference) ("New Series E Stock").

ARTICLE II

2.01. Colt Capital Stock. At the Effective Time, the shares of capital stock of all classes and series of classes of Colt then outstanding and any such shares held in its treasury (including without limitation any such shares held in the treasury of Crucible or any subsidiary of Colt or Crucible) shall be converted into fully paid and nonassessable shares of capital stock of the Consolidated Corporation as follows: (a) each share of Colt \$1.60 Preferred Stock shall be converted into one share of New Series A Stock; (b) each share of Colt 4½% Preferred Stock shall be converted into one share of New Series B Stock; (c) each share of Colt 4¼% Preferred Stock shall be converted into one share of New Series C Stock; (d) if the Merger shall have occurred, each share of Colt \$2.75 Preferred Stock shall be converted into one share of New Series E Stock; and (e) each share of Colt Common Stock shall be converted into one share of New Common Stock.

2.02. No Exchange of Colt Certificates Required. After the Effective Time, certificates theretofore representing shares of capital stock of Colt converted pursuant to Section 2.01 shall thereafter represent the new shares of capital stock of the Consolidated Corporation into which such shares of capital stock of Colt have been converted and it shall not be necessary for holders of such certificates to exchange them for

certificates representing new shares of capital stock of the Consolidated Corporation. Upon the surrender of any such certificate to the Consolidated Corporation at the office of one of its transfer agents, the transferee or other holder of the certificate so surrendered shall be entitled to receive in exchange therefor a certificate or certificates representing the new shares of capital stock of the Consolidated Corporation into which the shares of capital stock of Colt theretofore represented by the certificate thus surrendered have been converted pursuant to Section 2.01.

2.03. Colt Stock Options. At the Effective Time, each option to purchase Colt Common Stock, granted pursuant to the Qualified Stock Option Plan and the Restricted Stock Option Plan of Colt, outstanding immediately prior to the Effective Time (including (i) the stock options originally exercisable for shares of Common Stock of Elox Corporation, a Michigan corporation, now exercisable for shares of Colt Common Stock and (ii) if the Merger shall have occurred, the stock options originally exercisable for shares of Common Stock of Central which, pursuant to the Merger Agreement shall have become exercisable for shares of Colt Common Stock) shall be converted into a substitute option to purchase an equal number of shares of New Common Stock; otherwise each such option shall be exercisable upon the terms and conditions and for the respective periods stated in such option.

2.04. Colt Stock Warrants. At the Effective Time, if the Merger shall have occurred, each warrant to purchase Colt Common Stock (originally exercisable for shares of Common Stock of Central which, pursuant to the Merger Agreement, shall have become exercisable for shares of Colt Common Stock) outstanding immediately prior to the Effective Time shall be converted into a substitute warrant to purchase an equal number of shares of New Common Stock; otherwise each such warrant shall be exercisable under the terms and conditions and for the respective periods stated in such warrant.

2.05. Crucible Capital Stock. At the Effective Time, the then outstanding shares of Crucible Common Stock, except any shares held in the treasury of Crucible and any shares owned by Colt or any subsidiary of Colt or Crucible, shall be converted into fully paid and nonassessable shares of New Series D Stock and New Common Stock at the rate of twenty-three one hundredths (0.23) of a share of New Series D Stock and forty-one one hundredths (0.41) of a share of New Common Stock for each share of Crucible Common Stock. Shares of Crucible Common Stock held in the treasury of Crucible, and shares of Crucible Common Stock owned by Colt or any subsidiary of Colt or Crucible immediately prior to the Effective Time, shall be canceled.

2.06. Exchange of Crucible Certificates. After the Effective Time, each holder of a certificate or certificates theretofore representing shares of Crucible Common Stock converted pursuant to Section 2.04 shall surrender the same for cancelation to the Consolidated Corporation or its agent, and shall receive in exchange therefor a certificate or certificates representing the number of whole shares of New Series D Stock and New Common Stock into which such shares of Crucible Common Stock have been so converted. Until such surrender and cancelation, each such outstanding certificate shall, after the Effective Time, be deemed for all purposes to evidence the number of whole shares of New Series D Stock and New Common Stock into which the same shall have been converted; provided, however, that dividends and other distributions in respect of such shares of New Series D Stock and New Common Stock shall not be paid to the holder of such certificate expressed to represent Crucible Common Stock in respect of the shares of New Series D Stock and New Common Stock represented thereby, but in lieu thereof there shall be paid or distributed to the first record holders of the certificates for shares of New Series D Stock and New Common Stock issued in exchange for such certificate expressed to represent Crucible Common Stock the amount of the dividends and other distributions which shall theretofore have become payable or distributable with respect to the number of shares of New Series D Stock and New Common Stock represented by the certificates issued in exchange upon such surrender, such amount to be paid or distributed on the surrender of such certificate, but without interest. If any certificate for New Series D Stock or New Common Stock is to be issued in a name other than that in which the certificate for shares surrendered in exchange therefor shall have been registered, it shall be a condition of such exchange that the certificate so surrendered shall be properly endorsed for transfer or

accompanied by an appropriate instrument of assignment and transfer, and that the person requesting such exchange shall pay to the Consolidated Corporation any transfer or filing taxes payable by reason thereof or of any prior transfer of such certificate or establish to the satisfaction of the Consolidated Corporation that such taxes have been paid or are not payable.

2.07. *Fractional Interests.* No fractional shares of New Series D Stock or New Common Stock and no scrip certificates therefor shall be issued to represent the fractional share interests to which Crucible stockholders may be entitled; and such fractional share interests shall not entitle the owners thereof to vote, receive dividends or to exercise any other right of stockholders. Each such Crucible stockholder shall be afforded an opportunity during the period of 45 days following the Effective Time, through an agent for all such stockholders (appointed and compensated by the Consolidated Corporation), either to consolidate his fractional interests into one full share of New Series D Stock and/or New Common Stock, as the case may be, by purchasing the additional fractional interests required or to sell his fractional interests and obtain the proceeds of such sale. All fractional interests which are not consolidated or sold pursuant to such arrangements will be consolidated by such agent and be sold following the expiration of such 45-day period, and the proceeds thereof (net of any brokerage commissions and transfer taxes) remitted to the stockholders entitled thereto (and the single fractional interests of New Series D Stock and/or New Common Stock, if any, remaining thereafter shall be purchased by the Consolidated Corporation at the average per share price represented by such proceeds and shall be canceled). Any such amount not claimed within six years after the date of such consolidation or sale shall be repaid to the Consolidated Corporation, after which the stockholders entitled thereto shall look only to the Consolidated Corporation for the payment thereof without interest. Purchases and sales of fractional interests will be effected periodically on the basis of quoted market prices for New Series D Stock or New Common Stock on the New York Stock Exchange (or on the basis of quoted market prices for New Series D Stock or New Common Stock on the principal market therefor, if the New York Stock Exchange is not such principal market), and the agent may offset purchase and sell orders.

2.08. *Crucible Stock Options.* At the Effective Time each option to purchase shares of Crucible Common Stock, granted pursuant to the Incentive Stock Option Plan and the 1967 Stock Option Plan of Crucible, outstanding immediately prior to the Effective Time, shall be converted into a substitute option to purchase an aggregate number of shares of New Series D Stock and New Common Stock equal to the next lowest aggregate number of whole shares of New Series D Stock and New Common Stock into which the aggregate number of shares of Crucible Common Stock originally covered by such option would be convertible under the terms of this Agreement (if such shares of Crucible Common Stock were outstanding at the Effective Time and converted into new shares of capital stock of the Consolidated Corporation pursuant to Section 2.04) and the aggregate purchase price of the shares of New Series D Stock and New Common Stock purchasable (as a unit) upon the exercise of each such option shall be an amount equal to the aggregate purchase price of the Crucible Common Stock covered by such option; each such option shall be exercisable as to the New Series D Stock and New Common Stock purchasable thereunder as aforesaid, in respect of each share of Crucible Common Stock originally covered thereby, only as units of such New Series D Stock and New Common Stock upon each exercise of such option; otherwise each such option shall be exercisable upon the terms and conditions and for the respective periods stated in such option.

2.09. *Colt Shares Acquired upon Payment of Appraisal Rights.* Shares of capital stock of Colt of any class acquired by the Consolidated Corporation upon payment to dissenting Colt stockholders who have exercised rights of appraisal under Pennsylvania law shall be canceled.

ARTICLE III

3.01. *Board of Directors and Committees of Consolidated Corporation.* At the Effective Time, the number of Directors constituting the Board of Directors of the Consolidated Corporation shall be eleven and the persons constituting such Board of Directors shall be the persons named in Article Fifth of

Appendix A hereto. Each such Director shall hold office until the annual meeting of stockholders of the Consolidated Corporation next following the Effective Time and until his successor has been elected and has qualified. If at the Effective Time a vacancy shall exist in the Board of Directors, such vacancy may be filled in the manner provided in the By-Laws of the Consolidated Corporation as in effect at and after such Time. At the Effective Time, the various committees of the Board of Directors of the Consolidated Corporation shall be the same as the committees of the Board of Directors of Colt as constituted immediately prior to the Effective Time, with all their powers continuing until such time as changed by the Board of Directors of the Consolidated Corporation.

3.02. *Officers of Consolidated Corporation.* At the Effective Time, the officers of the Consolidated Corporation shall be the officers of Colt in office immediately prior to the Effective Time, each to hold office in accordance with the By-Laws of the Consolidated Corporation as in effect at and after the Effective Time. At the Effective Time or as soon as practicable thereafter the Board of Directors of the Consolidated Corporation shall elect John C. Lobb an Executive Vice President of the Consolidated Corporation.

ARTICLE IV

4.01. *Colt Employee Benefit Plans.* At the Effective Time the Consolidated Corporation shall assume all obligations of Colt under and in respect of (a) the Colt Qualified Stock Option Plan, approved by Colt stockholders at their 1965 annual meeting, as amended by the Colt Board of Directors (subject, however, to the approval by the stockholders of Colt and Crucible of said Plan and such assumption thereof by the Consolidated Corporation), (b) the Colt Incentive Plan, approved by Colt stockholders at their 1965 annual meeting, (c) the Colt Retirement-Savings Plan for Salaried Employees, approved by Colt stockholders at their 1966 annual meeting, and (d) the Colt Non-Contributory Pension Plan for Salaried Employees and the Colt Contributory Pension Plan for Salaried Employees, approved by Colt stockholders at their 1966 annual meeting, all as the same shall be in effect at the Effective Time. The requirements of any such plan involving the purchase by Colt or by trustees under any such plan of Colt Common Stock for the accounts of employees shall be satisfied by the purchase of a like number of shares of New Common Stock and the requirements of any such plan involving the issuance or reservation for issuance of shares of Colt Common Stock shall be satisfied by the issuance or reservation for issuance of a like number of shares of New Common Stock.

4.02. *Colt Authorizations and Employees, etc.* All corporate acts, plans, policies, approvals and authorizations of the stockholders, Board of Directors, committees elected or appointed by the Board of Directors, officers or agents of Colt which were valid and effective immediately prior to the Effective Time shall be taken for all purposes as the acts, plans, policies, approvals and authorizations of the Consolidated Corporation and shall be as effective and binding on the Consolidated Corporation as the same were with respect to Colt. The employees and agents of Colt and its subsidiaries shall become the employees and agents of the Consolidated Corporation or its subsidiaries, as the case may be, and shall continue to be entitled to the same rights and benefits which they enjoyed as employees and agents of Colt or its subsidiaries.

4.03. *Effect of Article.* The foregoing provisions of Sections 4.01 and 4.02 shall be in furtherance and not in limitation of the provisions of Section 1.05.

ARTICLE V

5.01. *Conditions to Colt's Obligations.* The obligations of Colt under this Agreement are subject to the satisfaction of the following conditions at or prior to the Filing Time (unless, except in the case of (a) below, waived by Colt):

(a) The requisite approvals of this Agreement necessary to effectuate the Consolidation shall have been given by the stockholders of Colt and Crucible;

(b) Crucible and Cru Colt shall have complied in all material respects with all their agreements contained in this Agreement and in the Three-Party Agreement and none of the representations or warranties of Crucible contained in the Three-Party Agreement shall be false in any material respect as of the Filing Time;

(c) All necessary governmental authorizations and permits in connection with the Consolidation shall have been secured;

(d) An opinion of counsel satisfactory to Colt shall have been delivered to Colt to the effect that: (i) the Consolidation of Colt and Crucible and the transactions contemplated by this Agreement will constitute a reorganization within the meaning of the Internal Revenue Code of 1954, as amended, and therefore no gain or loss will be recognized upon such Consolidation by Colt or Crucible or by the stockholders of Colt (except with respect to amounts received by them as payment pursuant to appraisal rights) or by the stockholders of Crucible (except with respect to amounts received by them on the sale of fractional share interests); (ii) the conversion of shares of New Series A Stock, New Series B Stock and New Series C Stock to be issued pursuant to the Consolidation into New Common Stock will not result in gain or loss to the holders of such Stock; and (iii) the conversion of the Colt employees' stock options in the Consolidation into substitute options to purchase New Common Stock will constitute a substitution or assumption of options within the meaning of Section 425(a) of said Code and will not constitute a modification, extension, or renewal of options pursuant to Section 425(h) of said Code, so that such Colt employees' stock options will retain their status as qualified or restricted stock options.

(e) There shall not be any actual or threatened litigation to restrain or invalidate the Consolidation or any other transaction contemplated in this Agreement, the defense of which would, in the judgment of the Board of Directors of Colt, made in good faith and based upon the advice of counsel, involve expense or lapse of time that would be materially adverse to the interests of Colt or its stockholders;

(f) The shares of New Series A Stock, New Series D Stock and New Common Stock to be issued in the Consolidation and to be issuable on the exercise of the options referred to in Sections 2.03 and 2.08 and the warrants referred to in Section 2.04 and the shares of New Common Stock to be issuable on conversion of the shares of New Series A Stock, New Series B Stock, New Series C Stock and New Series D Stock to be issued in the Consolidation and to be issuable on conversion of the Fairbanks Morse Debentures shall have been duly listed, subject to official notice of issuance, on the New York Stock Exchange and all such shares of New Common Stock shall have been duly listed, subject to official notice of issuance, on the Midwest Stock Exchange and the Pacific Coast Stock Exchange; and applications for the registration of such securities under the Securities Exchange Act of 1934 shall have been duly filed with the Securities and Exchange Commission;

(g) The number of shares of capital stock of all classes of Colt for which Colt stockholders shall have demanded or shall have become entitled to demand appraisal in accordance with Pennsylvania law shall not have an aggregate market value in excess of \$5,000,000 on the date of the Colt stockholders' meeting at which the Consolidation is approved; and

(h) An opinion of counsel satisfactory to Colt shall have been delivered to Colt to the effect that all corporate proceedings necessary to effectuate the Consolidation have been duly taken in accordance with law.

5.02. *Conditions to Crucible's Obligations.* The obligations of Crucible under this Agreement are subject to the satisfaction of the following conditions at or prior to the Filing Time (unless, except in the case of (a) below, waived by Crucible):

(a) The requisite approvals of this Agreement necessary to effectuate the Consolidation shall have been given by the stockholders of Colt and Crucible;

(b) Colt shall have complied in all material respects with all of its agreements contained in this Agreement and in the Three-Party Agreement and none of the representations or warranties of Colt contained in the Three-Party Agreement shall be false in any material respect as of the Filing Time;

(c) All necessary governmental authorizations and permits in connection with the Consolidation shall have been secured;

(d) An opinion of counsel satisfactory to Crucible shall have been delivered to Crucible, to the effect that (i) the Consolidation of Colt and Crucible and the transactions contemplated by this Agreement will constitute a reorganization within the meaning of the Internal Revenue Code of 1954, as amended, and therefore no gain or loss will be recognized upon such Consolidation by Colt or Crucible or by the stockholders of Colt (except with respect to amounts received by them as payment pursuant to appraisal rights) or by the stockholders of Crucible (except with respect to amounts received by them on the sale of fractional share interests); (ii) the conversion of shares of New Series D Stock to be issued pursuant to the Consolidation into New Common Stock will not result in gain or loss to the holders of such New Series D Stock; (iii) the conversion of the Crucible employees' stock options in the Consolidation into substitute options to purchase New Series D Stock and New Common Stock will constitute a substitution or assumption of options within the meaning of Section 425(a) of said Code and will not constitute a modification, extension, or renewal of options pursuant to Section 425(h) of said Code, so that such Crucible employees' stock options will retain their status as qualified or restricted stock options; and (iv) based on guidelines issued by the Commissioner of Internal Revenue and on previous rulings given by the Internal Revenue Service, such counsel believes that, if requested by Crucible, the Internal Revenue Service would issue a ruling to the effect that the provisions of Section 306(a) of such Code will not apply to sales or other dispositions of shares of New Series D Stock to be issued pursuant to the Consolidation by virtue of the exception provided by Section 306(b)(4) of said Code;

(e) There shall not be any actual or threatened litigation to restrain or invalidate the Consolidation or any other transaction contemplated in this Agreement, the defense of which would, in the judgment of the Board of Directors of Crucible, made in good faith and based upon the advice of counsel, involve expense or lapse of time that would be materially adverse to the interests of Crucible or its stockholders;

(f) The shares of New Series D Stock and New Common Stock to be issued in the Consolidation and to be issuable on the exercise of the options referred to in Section 2.08 and the shares of New Common Stock to be issuable on conversion of such shares of New Series D Stock at the initial conversion price shall have been duly listed, subject to official notice of issuance, on the New York Stock Exchange and all such shares of New Common Stock shall have been duly listed, subject to official notice of issuance, on the Midwest Stock Exchange and the Pacific Coast Stock Exchange; and applications for the registration of such securities under the Securities Exchange Act of 1934 shall have been duly filed with the Securities and Exchange Commission; and

(g) An opinion of counsel satisfactory to Crucible shall have been delivered to Crucible to the effect that all corporate proceedings necessary to effectuate the Consolidation have been duly taken in accordance with law.

ARTICLE VI

6.01. *Termination.* This Agreement may be terminated prior to the Filing Time (notwithstanding any stockholder approval) (a) by the mutual consent of the Boards of Directors of both the Constituent Corporations or (b) by the Board of Directors of either of the Constituent Corporations (except as a result of the breach of this Agreement or the Three Party Agreement by the party seeking to terminate) if the Effective Time has not occurred on or before December 31, 1968, or such later time as may from time to time be fixed by the mutual consent of the Boards of Directors of both the Constituent Corporations.

6.02. *Extensions, Waivers and Amendments.* At any time prior to the Filing Time either of the Constituent Corporations may, by written instrument, (a) extend the time for the performance of any of the obligations or other acts of the other Constituent Corporation required to be performed by this Agreement or the Three-Party Agreement, (b) waive any inaccuracies in the representations and warranties of the other Constituent Corporation contained in the Three-Party Agreement or in any document delivered pursuant thereto, and (c) waive compliance with any of the covenants or agreements of the other Constituent Corporation contained in this Agreement or in the Three-Party Agreement; and Colt may, by written instrument, extend the time for the performance by Cru Colt of, or waive compliance by Cru Colt with, any of the covenants or agreements of Cru Colt contained in the Three-Party Agreement. At any time prior to the Filing Time (notwithstanding any stockholder approval) the Constituent Corporations may, by written agreement, amend or supplement any of the provisions of this Agreement; *provided, however,* that no such amendment or supplement shall change the number of shares of capital stock of the Consolidated Corporation to be issued pursuant to this Agreement in respect of the shares of capital stock of the Constituent Corporations or materially and adversely affect the rights of the stockholders of Colt or Crucible without the approval of the respective stockholders of such corporations. Any agreement on the part of either of the Constituent Corporations for any such extension, waiver or amendment shall be validly and sufficiently authorized for the purposes of this Agreement if set forth in an instrument in writing signed on behalf of such party by its Chairman of the Board, its President or one of its Vice Presidents.

6.03. *Costs.* Each of the Constituent Corporations shall bear and pay all costs and expenses incurred by it or on its behalf in connection with the Consolidation.

6.04. *Notices.* Any notice to be given hereunder shall be in writing and delivered personally or sent by certified mail postage prepaid, (a) if to Colt, addressed to

Colt Industries Inc
1290 Avenue of the Americas
New York, N. Y. 10019

Attention of Secretary;

or (b) if to Crucible, addressed to

Crucible Steel Corporation
Four Gateway Center
Pittsburgh, Pennsylvania 15222
Attention of General Counsel.

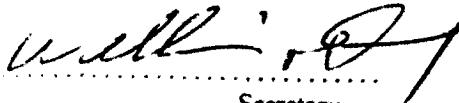
6.05. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

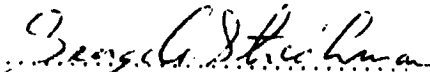
IN WITNESS WHEREOF, each of the Constituent Corporations has caused this Agreement to be signed in its corporate name by its Chairman of the Board, its President or one of its Vice Presidents and its Secretary or one of its Assistant Secretaries, and its corporate seal to be hereunto affixed and attested by its Secretary or one of its Assistant Secretaries, all as of the day and year first above written.

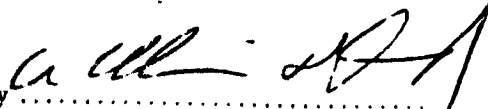
COLT INDUSTRIES INC,

[CORPORATE SEAL]

Attest:


.....
Secretary

By 
.....
Chairman of the Board

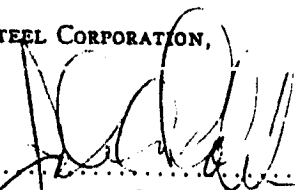
By 
.....
Secretary

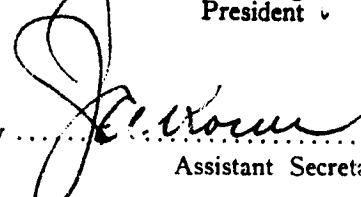
CRUCIBLE STEEL CORPORATION,

[CORPORATE SEAL]

Attest:


.....
Assistant Secretary

By 
.....
President

By 
.....
Assistant Secretary

CERTIFICATE OF INCORPORATION**OF****COLT INDUSTRIES INC****ARTICLE FIRST**

The name of the Corporation (herein called the Corporation) is

COLT INDUSTRIES INC

ARTICLE SECOND

The address of the registered office of the Corporation in the State of Delaware is 100 West Tenth Street, City of Wilmington, County of New Castle. The name of the registered agent of the Corporation at such address is The Corporation Trust Company.

ARTICLE THIRD

The nature of the business and purposes to be conducted and promoted by the Corporation shall be to conduct any lawful business, to promote any lawful purpose and to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE FOURTH

4.1. The total number of shares of stock of all classes which the Corporation shall have authority to issue is 18,000,000, of which 3,000,000 shares of the par value of \$1 each are to be of a class designated "Serial Preferred Stock" and 15,000,000 shares of the par value of \$1 each are to be of a class designated "Common Stock".

4.2. The voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the classes of stock of the Corporation which are set forth in this Certificate of Incorporation, and the authority vested in the Board of Directors to fix by resolution or resolutions providing for the issue of Serial Preferred Stock the voting powers, if any, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the shares of Serial Preferred Stock which are not set forth in this Certificate of Incorporation, are specified in Sections 4.3 through 4.20, inclusive, of this Article Fourth.

4.3. The Serial Preferred Stock may be issued from time to time in one or more series of any number of shares, provided that the aggregate number of shares issued and not canceled of any and all such series shall not exceed the total number of shares of Serial Preferred Stock hereinabove authorized. Each series of Serial Preferred Stock shall be distinctively designated by letter or descriptive words. All series of Serial Preferred Stock shall rank equally and be identical in all respects except as permitted

by the provisions of Section 4.4 of this Article Fourth. Except as otherwise provided in Sections 4.13, 4.14, subsections (d), (e) and (h) of Section 4.15 and subsection (h) of Sections 4.16, 4.17, 4.18, and 4.20, different series of Serial Preferred Stock shall not be construed to constitute different classes of shares for the purpose of voting by classes.

4.4 Subject to the provisions of Sections 4.15 through 4.20, inclusive, of this Article Fourth, which specify the voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the first five series of Serial Preferred Stock, authority is hereby vested in the Board of Directors from time to time to issue the Serial Preferred Stock as Serial Preferred Stock of any other series and in connection with the creation of each such series to fix by resolution or resolutions providing for the issue of shares thereof the voting powers, if any, the designation, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of such series to the full extent now or hereafter permitted by this Certificate of Incorporation and the laws of the State of Delaware, in respect of the matters set forth in the following subsections (a) to (i), inclusive:

(a) the distinctive designation of such series and the number of shares which shall constitute such series, which number may be increased or decreased (but not below the number of shares thereof then outstanding) from time to time by action of the Board of Directors;

(b) the dividend rate of such series, the date of cumulation (as defined in Section 4.11 of this Article Fourth) of such series and any limitations, restrictions or conditions on the payment of dividends;

(c) the price or prices at which, and the terms and conditions on which, the shares of such series may be redeemed by the Corporation, plus an amount equal to accrued dividends (as defined in Section 4.11 of this Article Fourth);

(d) the amount or amounts payable upon the shares of such series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation;

(e) whether or not the shares of such series shall be entitled to the benefit of a purchase fund or sinking fund to be applied to the purchase or redemption of shares of such series and, if so entitled, the amount of such fund and the manner of its application;

(f) whether or not the shares of such series shall be made convertible into, or exchangeable for, shares of any other class or classes of stock, or of any series thereof, of the Corporation or shares of any other series of Serial Preferred Stock, and, if made so convertible or exchangeable, the conversion price or prices, or the rate or rates of exchange, and the adjustments thereof, if any, at which such conversion or exchange may be made, and any other terms and conditions of such conversion or exchange;

(g) whether or not the shares of such series shall have any voting powers, either general or special, in addition to the voting powers conferred upon the Serial Preferred Stock by the provisions of this Article Fourth and, if additional voting powers are so granted, the extent of such additional voting powers;

(h) whether or not the shares of such series shall be entitled to the benefit of conditions and restrictions upon the creation of indebtedness of the Corporation or any subsidiary, upon the issue of any additional Serial Preferred Stock (including additional shares of such series or of any other series), and upon the payment of dividends (in addition to those provided in Sections 4.5 and 4.6 of this Article Fourth) or the making of other distributions on, and the purchase, redemption or other acquisition by the Corporation or any subsidiary of, any outstanding stock of the Corporation; and

(i) such other preferences, rights, restrictions and qualifications as shall not be inconsistent herewith.

4.5. The holders of Serial Preferred Stock of each series shall be entitled to receive, when and as declared by the Board of Directors, dividends in cash at the rate for such series specified in Section 4.13, 4.16, 4.17, 4.18 or 4.20 or fixed by the Board of Directors as provided in Section 4.1 of this Article Fourth, and no more, payable quarterly on the last days of March, June, September and December of each year (each of such quarterly periods being hereinafter called a dividend period), in each case from the date of cumulation of such series. Dividends on Serial Preferred Stock shall be cumulative, whether or not there shall be net profits or net assets of the Corporation legally available for the payment of such dividends. If at any time full cumulative dividends (as defined in Section 4.11 of this Article Fourth) upon the Serial Preferred Stock of all series to the end of the then current dividend period shall not have been paid or declared and a sum sufficient for payment thereof set apart for such payment, the amount of the deficiency shall be fully paid, but without interest, or dividends in such amount shall be declared and a sum sufficient for the payment thereof shall be set apart for such payment, before any sum or sums shall be set aside for or applied to the purchase or redemption of Serial Preferred Stock of any series (either pursuant to any applicable purchase fund or sinking fund provisions or any redemptions authorized pursuant to Section 4.9 of this Article Fourth or otherwise) or set aside for or applied to the purchase of Junior Stock (as defined in Section 4.7 of this Article Fourth), and before any dividend shall be declared or paid or any other distribution ordered or made upon the Junior Stock, other than a dividend payable in Junior Stock; *provided, however*, that any moneys deposited in the purchase fund or sinking fund provided for any series of Serial Preferred Stock in the resolution or resolutions providing for the issue of shares of said series, in compliance with the provisions of such purchase fund or sinking fund and in compliance at the time of such deposit with the provisions of this Section 4.5, may thereafter be applied to the purchase or redemption of Serial Preferred Stock in accordance with the terms of such purchase fund or sinking fund whether or not at the time of such application full cumulative dividends upon the outstanding Serial Preferred Stock of all series to the end of the then current dividend period shall have been paid or declared and set apart for payment. No dividends shall be declared on any series of Serial Preferred Stock in respect of any dividend period unless there shall likewise be and have been declared on all shares of Serial Preferred Stock of each other series at the time outstanding like dividends for such dividend period, ratably in proportion to the respective dividend rates per annum fixed therefor as herein provided.

4.6. The Corporation shall not set aside any sum or sums for or apply any sum or sums to the purchase of Junior Stock, or declare or pay any dividend upon Junior Stock (other than a dividend payable in Junior Stock), or order or make any distribution upon Junior Stock.

(a) if, after giving effect to such purchase, dividend or distribution, as though made or paid, the sum of the capital and surplus of the Corporation would be reduced to an amount less than the sum of (i) the aggregate preferential amounts which the holders of Serial Preferred Stock of all series then outstanding would be entitled to receive upon the involuntary liquidation of the Corporation, plus (ii) the aggregate amount of capital attributable to all shares of Junior Stock (including the aggregate par value of all such shares having a par value) then outstanding; and

(b) unless the Corporation shall have complied with the purchase fund or sinking fund provisions, if any, of the resolution or resolutions providing for the issue of any series of Serial Preferred Stock, other than the first four series, then outstanding.

4.7. Subject to the foregoing, the holders of Junior Stock shall be entitled, to the exclusion of the holders of Serial Preferred Stock of any and all series, to receive such dividends as from time to time may be declared by the Board of Directors. The term "Junior Stock" whenever used in this Article Fourth with reference to the Serial Preferred Stock shall mean the Common Stock and any other class or classes of stock over which the Serial Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any liquidation or dissolution or winding up of the Corporation.

4.8. In the event of any liquidation, dissolution or winding up of the Corporation, the holders of Serial Preferred Stock of each series then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders, whether from capital, surplus or earnings, before any payment shall be made to the holders of Junior Stock, the amount specified in Section 4.15, 4.16, 4.17, 4.18 or 4.20 or fixed by the Board of Directors as provided in Section 4.4 of this Article Fourth for every share of their holdings of Serial Preferred Stock of such series. If upon any liquidation, dissolution or winding up of the Corporation the assets of the Corporation available for distribution to its stockholders shall be insufficient to pay the holders of Serial Preferred Stock of all series the full amounts to which they respectively shall be entitled, the holders of Serial Preferred Stock of all series shall share ratably in any distribution of assets according to the respective amounts which would be payable in respect of the shares of Serial Preferred Stock held by them upon such distribution if all amounts payable on or with respect to Serial Preferred Stock of all series were paid in full. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, after payment shall have been made to the holders of Serial Preferred Stock of the full amount to which they shall be entitled as aforesaid, the holders of Junior Stock shall be entitled, to the exclusion of the holders of Serial Preferred Stock of any and all series, to share, ratably according to their respective rights and preferences and in each case according to the respective number of shares held by them, in all remaining assets of the Corporation available for distribution to its stockholders. Neither the merger or consolidation of the Corporation into or with another corporation nor the merger or consolidation of any other corporation into or with the Corporation, nor the sale, transfer or lease of all or substantially all the assets of the Corporation, shall be deemed to be a liquidation, dissolution or winding up of the Corporation, *provided* that any such merger or consolidation or sale, transfer or lease shall have been approved by the affirmative vote of the holders of two-thirds of the total number of shares of Serial Preferred Stock of all series then outstanding, except the \$1.60 Cumulative Preferred Stock, Convertible Series A (the special voting rights of which in such event are specified in subsection (d) of Section 4.15), voting together as a single class.

4.9. Subject to the provisions of Sections 4.15 through 4.18, inclusive, and Section 4.20 of this Article Fourth and to any requirements which may be applicable to the redemption of any given series of Serial Preferred Stock other than the first five series as provided in any resolution or resolutions providing for the issue of such series of Serial Preferred Stock, the Serial Preferred Stock of all series, or of any series thereof, or any part of any series thereof, at any time outstanding, may be redeemed by the Corporation at its election expressed by resolution of the Board of Directors, at any time or from time to time, upon not less than 30 days' previous notice to the holders of record of Serial Preferred Stock to be redeemed, given by mail in such manner as may be prescribed by resolution or resolutions of the Board of Directors:

(a) if such redemption shall be otherwise than by the application of moneys in any purchase fund or sinking fund, at the redemption price specified in Section 4.15, 4.16, 4.17, 4.18 or 4.20 or fixed by the Board of Directors as provided in Section 4.4 of this Article Fourth, at which shares of Serial Preferred Stock of the particular series may then be redeemed at the option of the Corporation, and

(b) if such redemption shall be by the application of moneys in any purchase fund or sinking fund, at the redemption price, fixed as provided in Section 4.4 of this Article Fourth, at which shares of Serial Preferred Stock of the particular series may then be redeemed through or for such purchase fund or sinking fund;

provided, however, that, before any Serial Preferred Stock of any series shall be redeemed at said redemption price thereof specified in clause (a) of this Section 4.9, all moneys at the time in the purchase fund or sinking fund, if any, for Serial Preferred Stock of that series shall first be applied, as nearly as may be, to the purchase or redemption of Serial Preferred Stock of that series as provided

in the resolution or resolutions of the Board of Directors providing for such purchase fund or sinking fund. If less than all the outstanding shares of Serial Preferred Stock of any series are to be redeemed, the redemption may be made either by lot or *pro rata* in such manner as may be prescribed by resolution of the Board of Directors. If the shares of Serial Preferred Stock to be redeemed shall be convertible into or exchangeable for shares of stock of the Corporation, the notice of redemption shall refer to such rights of conversion or exchange and shall state the date upon which such rights will cease and terminate. The Corporation may, if it shall so elect, provide moneys for the payment of the redemption price by depositing the amount thereof for the account of the holders of Serial Preferred Stock entitled thereto with a bank or trust company doing business in the Borough of Manhattan, City and State of New York, and having capital and surplus of at least \$5,000,000. The date upon which such deposit may be made by the Corporation (hereinafter called the date of deposit) shall be prior to the date fixed as the date of redemption but not earlier than the date on which notice thereof shall be given. In any such case there shall be included in the notice of redemption a statement of the date of deposit and of the name and address of the bank or trust company with which the deposit has been or will be made. On and after the date fixed in any such notice of redemption as the date of redemption (unless default shall be made by the Corporation in providing moneys for the payment of the redemption price pursuant to such notice) or, if the Corporation shall have made such deposit on or before the date specified therefor in the notice, then on and after the date of deposit, all rights as stockholders of the Corporation of the holders of the Serial Preferred Stock to be redeemed, except the right to receive the redemption price as hereinafter provided, and, in the case of such deposit, except any conversion or exchange rights not theretofore expired, shall cease and terminate. Such conversion or exchange rights, however, in any event shall cease and terminate upon the date fixed for redemption or upon any earlier date specified in Section 4.15, 4.16, 4.17 or 4.18 or fixed by the Board of Directors pursuant to Section 4.4 of this Article. Fourth for termination of such conversion or exchange rights. Anything herein contained to the contrary notwithstanding, said redemption price shall include an amount equal to accrued dividends on the Serial Preferred Stock to be redeemed to the date fixed for the redemption thereof and the Corporation shall not be required to declare or pay on such Serial Preferred Stock to be redeemed, and the holders thereof shall not be entitled to receive, any dividends in addition to those thus included in the redemption price: *provided, however*, that the Corporation may pay in regular course any dividends thus included in the redemption price either to the holders of record on the record date fixed for the determination of stockholders entitled to receive such dividends (in which event, anything herein to the contrary notwithstanding, the amount so deposited need not include any dividends so paid or to be paid) or as a part of the redemption price upon surrender of the certificates for the shares redeemed. At any time on or after the date fixed as aforesaid for such redemption or, if the Corporation shall elect to deposit the moneys for such redemption as herein provided, then at any time on or after the date of deposit and without awaiting the date fixed as aforesaid for such redemption, the respective holders of record of the Serial Preferred Stock to be redeemed shall be entitled to receive the redemption price upon actual delivery to the Corporation, or, in the event of such deposit, to the bank or trust company with which such deposit shall be made, of certificates for the shares to be redeemed, such certificates, if required, to be properly stamped for transfer and duly endorsed in blank or accompanied by proper instruments of assignment and transfer thereof duly executed in blank. Any moneys so deposited which shall not be required for such redemption because of the exercise of any right of conversion or exchange shall be returned to the Corporation. Any moneys so deposited which shall remain unclaimed by the holders of such Serial Preferred Stock at the end of six years after the redemption date shall be paid by such bank or trust company to the Corporation and any interest accrued on moneys so deposited shall belong to the Corporation and shall be paid to it from time to time.

4.10. Shares of any series of Serial Preferred Stock which have been redeemed (whether through the operation of a purchase fund or sinking fund or otherwise) or which, if convertible or exchangeable, have been converted into or exchanged for shares of stock of any other class or classes shall forthwith be retired and canceled and the number of authorized shares of Serial Preferred Stock shall be decreased by the number of shares so redeemed, converted or exchanged.

4.11. The term "date of cumulation" whenever used in this Article Fourth with reference to any series of Serial Preferred Stock shall be deemed to mean the date specified in Section 4.15, 4.16, 4.17, 4.18 or 4.20 or fixed by the Board of Directors as provided in Section 4.4 of this Article Fourth as the date of cumulation from and after which dividends on shares of such series shall accumulate or, if no date shall have been so fixed, the date on which shares of such series are first issued. Whenever used in this Article Fourth with reference to any share of any series of Serial Preferred Stock, the term "full cumulative dividends" shall be deemed to mean (whether or not in any dividend period, or any part thereof, in respect of which such term is used there shall have been net profits or net assets of the Corporation legally available for the payment of such dividends) that amount which shall be equal to dividends at the full rate specified in Section 4.15, 4.16, 4.17, 4.18 or 4.20 or fixed by the Board of Directors as provided in Section 4.4 of this Article Fourth as the dividend rate of such series for the period of time elapsed from the date of cumulation of such series to the date as of which full cumulative dividends are to be computed (including an amount equal to the dividend at such rate for any fraction of a dividend period included in such period of time); and the term "accrued dividends" shall be deemed to mean full cumulative dividends to the date as of which accrued dividends are to be computed, less the amount of all dividends paid, or deemed paid as hereinafter in this Section 4.11 provided, upon said share. In the event of the issue of additional shares of Serial Preferred Stock of any series after the original issue of shares of Serial Preferred Stock of such series, all dividends paid or accrued on Serial Preferred Stock of such series prior to the date of issue of such additional Serial Preferred Stock shall be deemed to have been paid on the additional Serial Preferred Stock so issued.

4.12. Subject to the provisions of this Certificate of Incorporation and except as otherwise provided by law, the shares of stock of the Corporation, regardless of class, may be issued for such consideration and for such corporate purposes as the Board of Directors may from time to time determine.

4.13. If any proposed amendment to this Certificate of Incorporation would alter or change the voting powers, preferences or relative, participating, optional or other special rights, or the qualifications, limitations or restrictions thereof, of the Serial Preferred Stock so as to affect the Serial Preferred Stock adversely, then the affirmative vote of the holders of two-thirds of the aggregate number of shares of Serial Preferred Stock of all series except the \$1.60 Cumulative Preferred Stock, Convertible Series A (the special voting rights of which in such an event are specified in subsection (h) of Section 4.15) at the time outstanding, considered as a single class without regard to series, shall be necessary for the adoption thereof in addition to any other vote required by law. An amendment to this Certificate of Incorporation creating any class of stock ranking prior to the Serial Preferred Stock as to dividends or upon liquidation or increasing the number of authorized shares of such prior class of stock shall be deemed to affect the Serial Preferred Stock adversely within the meaning of this Section 4.13. An amendment to this Certificate of Incorporation increasing the number of authorized shares of Serial Preferred Stock or creating any class of stock ranking on a parity with the Serial Preferred Stock as to dividends or upon liquidation or increasing the number of authorized shares of such parity class of stock shall not be deemed to affect the Serial Preferred Stock or any series thereof adversely, but the affirmative vote of the holders of a majority in interest of the Serial Preferred Stock of all series except the \$1.60 Cumulative Preferred Stock, Convertible Series A (the special voting rights of which in such an event are specified in subsection (h) of Section 4.15) at the time outstanding, considered as a single class without regard to series, shall be necessary for the adoption of any such amendment in addition to any other vote required by law. Notwithstanding the provisions of this Section 4.13, if any proposed amendment to this Certificate of Incorporation would alter or change the voting powers, preferences or relative, participating, optional or other special rights, or the classifications, limitations or restrictions thereof, of any particular series of the Serial Preferred Stock so as to affect such series adversely, such amendment may be adopted by the affirmative vote of the holders of such proportion of the shares of such series then outstanding as shall be required by the provisions of this Certificate of Incorporation or the resolution or resolutions providing for the issue of such series, without the vote or consent of the holders of shares of Serial Preferred Stock of any other series at the time outstanding not adversely affected by such amendment.

4.14. Subject to the provisions of any applicable law, or of the By-laws of the Corporation as from time to time amended, with respect to the fixing of a record date for the determination of stockholders entitled to vote, and except as otherwise provided by law, at each meeting of stockholders each holder of record of Serial Preferred Stock of the first five series, each holder of record of Serial Preferred Stock of any other series which shall have been granted such voting powers by the resolution or resolutions of the Board of Directors providing for the issue of such series, and each holder of record of Common Stock, voting together and not by classes, shall be entitled to one vote for each share of such stock held by him on all matters that may come before such meeting, except that at all elections of directors of the Corporation each such stockholder of record shall be entitled to as many votes as shall equal the number of votes which (except for this provision as to cumulative voting) he would be entitled to cast for the election of directors with respect to his shares of stock multiplied by the number of directors to be elected, and he may cast all of such votes for a single director or may distribute them among the number to be voted for, or for any two or more of them as he may see fit. In addition to the foregoing voting rights, if at the time of any annual meeting of stockholders for the election of directors a default in preference dividends on the Serial Preferred Stock, as hereinafter defined, shall exist, the number of directors constituting the Board of Directors of the Corporation shall be increased by two, and the holders of the Serial Preferred Stock of all series (whether or not the holders of such series of Serial Preferred Stock would be entitled to vote for the election of directors if such default in preference dividends did not exist), except the \$1.60 Cumulative Preferred Stock, Convertible Series A (the special voting rights of which upon a default in preference dividends are specified in subsection (g) of Section 4.15), shall have the right at such meeting, voting together by cumulative voting as a single class without regard to series, to the exclusion of the holders of Junior Stock, to elect two directors of the Corporation to fill such newly created directorships. Such right shall continue until there are no dividends in arrears upon the Serial Preferred Stock. Each director elected by the holders of shares of such series of Serial Preferred Stock (herein called a Serial Preferred Director), shall continue to serve as such director for the full term for which he shall have been elected, notwithstanding that prior to the end of such term a default in preference dividends shall cease to exist. Any Serial Preferred Director may be removed by, and shall not be removed except by, the vote of the holders of record of the outstanding shares of such series of Serial Preferred Stock, voting together as a single class without regard to series, at a meeting of the stockholders, or of the holders of shares of such series of Serial Preferred Stock, called for the purpose. So long as a default in any preference dividends on the Serial Preferred Stock shall exist (a) any vacancy in the office of a Serial Preferred Director may be filled (except as provided in the following clause (b)) by an instrument in writing signed by the remaining Serial Preferred Director and filed with the Corporation, and (b) in the case of the removal of any Serial Preferred Director, the vacancy may be filled by the vote of the holders of the outstanding shares of such series of Serial Preferred Stock, voting together as a single class without regard to series, at the same meeting at which such removal shall be voted. Each director elected as aforesaid by the remaining Serial Preferred Director shall be deemed, for all purposes hereof, to be a Serial Preferred Director. Whenever the term of office of the Serial Preferred Directors shall end and a default in preference dividends shall no longer exist, the number of directors constituting the Board of Directors of the Corporation shall be reduced by two. For the purposes of this Section 4.14, a "default in preference dividends" on the Serial Preferred Stock shall be deemed to have occurred whenever the amount of accrued dividends upon any series of the Serial Preferred Stock shall be equivalent to six full quarter-yearly dividends or more, and, having so occurred, such default shall be deemed to exist thereafter until, but only until, all accrued dividends on all shares of Serial Preferred Stock of each and every series then outstanding shall have been paid to the end of the last preceding quarterly dividend period.

4.15. The voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the first series of Serial Preferred Stock are as follows:

- (a) The distinctive designation of such series is "\$1.60 Cumulative Preferred Stock, Convertible Series A" (herein called the Series A Preferred) and the number of shares which shall constitute such series is 267,481 shares.

(b) The dividend rate of the Series A Preferred shall be \$1.60 per share per annum, such dividends shall be cumulative; and October 1, 1968, shall be the date of cumulation from and after which such dividends shall accumulate if the Series A Preferred shall be issued prior to December 31, 1968, and the first day of the calendar quarter in which the Series A Preferred shall be issued shall be the date of cumulation from and after which such dividends shall accumulate if the Series A Preferred shall be issued subsequent to December 31, 1968. Holders of shares of Series A Preferred shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of cumulative cash dividends at said rate.

(c) The shares of Series A Preferred shall be redeemable at the option of the Corporation, in whole or in part, at any time. The amount payable per share upon the exercise of such right to redeem shares of Series A Preferred shall be \$41 per share plus an amount equal to accrued dividends thereon to the date fixed for such redemption.

(d) Upon any voluntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series A Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any Junior Stock, the amount of \$41 per share, plus an amount equal to accrued dividends thereon to such time. Upon any involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series A Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any Junior Stock, the amount of \$40 per share, plus an amount equal to accrued dividends thereon to such time. The consolidation or merger of the Corporation with any other corporation or corporations shall not be deemed a liquidation, dissolution or winding up of the Corporation within the meaning of this subsection, *provided* that any such consolidation or merger shall have been approved by the affirmative vote of the holders of two-thirds of the total number of shares of Series A Preferred then outstanding, voting separately as a class to the exclusion of the holders of Serial Preferred Stock of all other series.

(e) The shares of Series A Preferred shall not be entitled to the benefit of any purchase fund or sinking fund.

(f) At the election of the respective holders thereof, any and all shares of Series A Preferred may be converted, at any time or, in case of stock called for redemption, up to and including the fifth day preceding the date fixed for redemption thereof, into fully paid and nonassessable shares of Common Stock at the rate of two and two-thirds ($2\frac{2}{3}$) shares of Common Stock for each five (5) shares of Series A Preferred, upon presentation and surrender to the Corporation for such purpose of certificates for the Series A Preferred so to be converted at the office or agency of the Corporation in the Borough of Manhattan, City and State of New York, all under such appropriate regulations as may from time to time be prescribed by the Board of Directors; *provided, however*, that in the event of an increase at any time in the number of shares of Common Stock outstanding as the result of any split-up by reclassification or otherwise of shares of the outstanding Common Stock, or as the result of any stock dividend payable in Common Stock (except stock dividends which in the aggregate, in any calendar year, do not exceed seven and one-half percent ($7\frac{1}{2}\%$) of the then issued and outstanding Common Stock), the number of shares of Common Stock into which each five (5) shares of Series A Preferred shall thereafter be convertible as aforesaid shall be increased in the same proportion as the number of shares of Common Stock outstanding immediately prior to such split-up or stock dividend in excess of seven and one-half percent ($7\frac{1}{2}\%$) is increased by such split-up or stock dividend, or, in the event that the number of shares of Common Stock at any time outstanding shall be decreased as a result of any combination by reclassification or otherwise of shares of the outstanding Common Stock, the number of shares of Common Stock into which each five (5) shares of Series A Preferred shall thereafter be convertible as aforesaid shall be decreased in the same proportion as the number of shares of Common Stock outstanding immediately prior to such combination is decreased by said combination. In the event that upon

any such adjustment the number of shares of Common Stock into which the Series A Preferred shall be so convertible shall include a fraction of a share, unless the Board of Directors shall otherwise determine, no certificates for fractional shares of Common Stock shall be issued, but, in lieu thereof, the Corporation may either issue scrip certificates which shall entitle the holder to receive a full share of Common Stock upon surrender of two or more such scrip certificates aggregating a full share and which may contain such terms and provisions and be void after such date as the Board of Directors shall determine, except that their term shall be no less than six years from the date of issuance, or the Board of Directors may make such other appropriate provisions therefor as it shall determine. There shall be no adjustment for dividends or arrears of dividends in the case of any such conversion. So long as there are outstanding any shares of Series A Preferred which at the time are convertible into shares of Common Stock pursuant to the provisions of this subsection, there shall be reserved unissued out of the authorized but unissued shares of Common Stock a number of shares sufficient to provide for such conversion.

(g) Whenever and so long as cumulative dividends upon the Series A Preferred shall be in arrears in an amount equal to six quarterly dividends, the holders of the Series A Preferred, voting separately as a class to the exclusion of the holders of Serial Preferred Stock of all other series and the holders of Junior Stock, shall be entitled at the next ensuing annual meeting of stockholders to vote for the election of two of the directors of the Corporation and such rights shall continue until there are no dividends in arrears upon the Series A Preferred.

(h) If any proposed amendment to this Certificate of Incorporation would alter or change the voting powers, preferences or relative, participating, optional or other special rights, or the qualifications, limitations or restrictions thereof, of the Series A Preferred so as to affect the Series A Preferred adversely then the affirmative vote of the holders of two-thirds of the aggregate number of shares of Series A Preferred at the time outstanding, voting separately as a class to the exclusion of the holders of Serial Preferred Stock of all other series, shall be necessary for the adoption thereof in addition to any other vote required by law. An amendment to this Certificate of Incorporation creating any class of stock ranking prior to the Series A Preferred as to dividends or upon liquidation or increasing the number of authorized shares of such prior class of stock shall be deemed to affect the Series A Preferred adversely within the meaning of this subsection. An amendment to this Certificate of Incorporation increasing the number of authorized shares of Series A Preferred or increasing the number of authorized shares of Serial Preferred Stock, or creating any class of stock ranking on a parity with the Series A Preferred as to dividends or upon liquidation or increasing the number of authorized shares of such parity class of stock, shall not be so deemed to affect the Series A Preferred adversely, but the affirmative vote of a majority in interest of the Series A Preferred, voting separately as a class as aforesaid, shall be necessary for the adoption of any such amendment in addition to any other vote required by law.

4.16. The voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the second series of Serial Preferred Stock are as follows:

(a) The distinctive designation of such series is "\$4.50 Cumulative Preferred Stock, Convertible Series B" (herein called the Series B Preferred) and the number of shares which shall constitute such series is 66,712 shares.

(b) The dividend rate of the Series B Preferred shall be \$4.50 per share per annum; such dividends shall be cumulative; and October 1, 1968 shall be the date of cumulation from and after which such dividends shall accumulate if the Series B Preferred shall be issued prior to December 31, 1968, and the first day of the calendar quarter in which the Series B Preferred shall be issued shall be the date of cumulation from and after which such dividends shall accumulate if the Series B Preferred shall be issued subsequent to December 31, 1968. Holders of shares of Series B Preferred shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of cumulative cash dividends at said rate.

(c) The shares of Series B Preferred shall be redeemable at the option of the Corporation, in whole or in part, at any time and from time to time after December 31, 1970. The amount payable per share upon the exercise of such right to redeem shares of Series B Preferred shall be as follows:

<u>If redeemed during 12 month period ending December 31</u>	<u>Redemption Price</u>	<u>If redeemed during 12 month period ending December 31</u>	<u>Redemption Price</u>
1971	\$103.25	1978	\$101.50
1972	103.00	1979	101.25
1973	102.75	1980	101.00
1974	102.50	1981	100.75
1975	102.25	1982	100.50
1976	102.00	1983	100.25
1977	101.75	1984 (and thereafter)	100.00

plus, in each case, an amount equal to accrued dividends thereon to the date fixed for such redemption.

(d) Upon any voluntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series B Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any Junior Stock, the following amounts per share:

<u>If liquidated, dissolved or wound up during the 12 month period ending December 31</u>	<u>Amount</u>	<u>If liquidated, dissolved or wound up during the 12 month period ending December 31</u>	<u>Amount</u>
1968	\$104.00	1977	\$101.75
1969	103.75	1978	101.50
1970	103.50	1979	101.25
1971	103.25	1980	101.00
1972	103.00	1981	100.75
1973	102.75	1982	100.50
1974	102.50	1983	100.25
1975	102.25	1984 (and thereafter)	100.00
1976	102.00		

plus, in each case, an amount equal to accrued dividends thereon to such time. Upon any involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series B Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any Junior Stock, the amount of \$100 per share, plus an amount equal to accrued dividends thereon to such time.

(e) The shares of Series B Preferred shall not be entitled to the benefit of any purchase fund or sinking fund.

(f) The shares of Series B Preferred shall be convertible at the option of the respective holders thereof at any time, at the place and in the manner specified in Section 4.19, into fully paid and nonassessable shares (calculated to the nearest $\frac{1}{100}$ of a share) of Common Stock at the price

of \$20.05 per share (taking the Series B Preferred at \$100 per share); *provided, however*, that in case of the redemption of any shares of Series B Preferred, such right of conversion shall cease and terminate, as to the shares called for redemption, at the close of business on the fifth day prior to the date fixed for redemption, unless default shall be made in the payment of the redemption price. The price at which shares of Common Stock shall be deliverable in exchange for shares of Series B Preferred upon conversion thereof is hereinafter referred to as the "conversion price" of the Series B Preferred. The conversion price shall be subject to adjustment from time to time in certain instances as hereinafter in Section 4.19 provided. For the purposes of this Section 4.16 and Sections 4.17, 4.18 and 4.19, the term "Common Stock" shall mean the Common Stock, par value \$1 per share, of the Corporation authorized on the date (herein called the Effective Date) that this Certificate of Incorporation is filed in the office of the Secretary of State of the State of Delaware, except as otherwise provided in subsection (d)(v) of Section 4.19.

Notwithstanding the provisions of subsection (d) of Section 4.19, no adjustment of the conversion price of the Series B Preferred shall be made pursuant to said subsection as a result of or in connection with (i) options granted before January 14, 1966, under the Restricted Stock Option Plan of Colt Industries Inc, a Pennsylvania corporation, (herein called Colt), assumed by the Corporation, or (ii) options (covering not more than 157,500 shares of Common Stock, but in computing such 157,500 shares at any time, shares as to which options shall have lapsed unexercised shall not be counted) granted before or after January 14, 1966, under the Qualified Stock Option Plan of Colt assumed by the Corporation, or upon the issuance of shares of Common Stock pursuant to any of the above mentioned options (as the number of shares subject thereto may be proportionately increased to give effect to any subdivision thereof or stock dividends thereon and proportionately decreased to give effect to any combination thereof subsequent to the Effective Date).

(g) The shares of Series B Preferred shall not have any special voting powers in addition to the voting powers conferred upon the Serial Preferred Stock of all classes by the foregoing provisions of this Article Fourth and the special voting powers conferred upon the shares of Series B Preferred by the provisions of subsection (h) of this Section 4.16.

(h) If any proposed amendment of this Certificate of Incorporation would alter or change the voting powers, preferences or relative, participating, optional or other special rights, or the qualifications, limitations or restrictions thereof, of the Series B Preferred so as to affect the Series B Preferred adversely (without affecting adversely the Serial Preferred Stock of all other series at the time outstanding), then the affirmative vote of the holders of two-thirds of the aggregate number of shares of Series B Preferred at the time outstanding shall be necessary for the adoption thereof in addition to any other vote required by law.

4.17. The voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the third series of Serial Preferred Stock are as follows:

(a) The distinctive designation of such series is "\$4.25 Cumulative Preferred Stock, Convertible Series C" (herein called the Series C Preferred) and the number of shares which shall constitute such series is 81,830 shares.

(b) The dividend rate of the Series C Preferred shall be \$4.25 per share per annum; such dividends shall be cumulative; and October 1, 1968, shall be the date of cumulation from and after which such dividends shall accumulate if the Series C Preferred shall be issued prior to December 31, 1968, and the first day of the calendar quarter in which the Series C Preferred shall be issued shall be the date of cumulation from and after which such dividends shall accumulate if the Series C Preferred shall be issued subsequent to December 31, 1968. Holders of shares of Series C Preferred shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of cumulative cash dividends at said rate.

(c) The shares of Series C Preferred shall be redeemable at the option of the Corporation, in whole or in part, at any time and from time to time after March 31, 1975. The amount payable per share upon the exercise of such right to redeem shares of Series C Preferred shall be \$102.50 per share plus an amount equal to accrued dividends thereon to the date fixed for such redemption.

(d) Upon any voluntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series C Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any Junior Stock, the amount of \$102.50 per share, plus an amount equal to accrued dividends thereon to such time. Upon any involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series C Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any Junior Stock, the amount of \$100 per share, plus an amount equal to accrued dividends thereon to such time.

(e) The shares of Series C Preferred shall not be entitled to the benefit of any purchase fund or sinking fund.

(f) The shares of Series C Preferred shall be convertible at the option of the respective holders thereof at any time, at the place and in the manner specified in Section 4.19, into fully paid and nonassessable shares (calculated to the nearest $\frac{1}{100}$ of a share) of Common Stock at the price of \$69.21 per share (taking the Series C Preferred at \$100 per share); *provided, however*, that in case of the redemption of any shares of Series C Preferred, such right of conversion shall cease and terminate, as to the shares called for redemption, at the close of business on the fifth day prior to the date fixed for redemption, unless default shall be made in the payment of the redemption price. The price at which shares of Common Stock shall be deliverable in exchange for shares of Series C Preferred upon conversion thereof is hereinafter referred to as the "conversion price" of the Series C Preferred. The conversion price shall be subject to adjustment from time to time in certain instances as hereinafter in Section 4.19 provided.

Notwithstanding the provisions of subsection (d) of Section 4.19, no adjustment of the conversion price of the Series C Preferred shall be made pursuant to said subsection as a result of or in connection with (i) options granted before April 15, 1968, under the Restricted Stock Option Plan of Colt assumed by the Corporation, or (ii) options (covering not more than 103,382 shares of Common Stock, but in computing such 103,382 shares at any time, shares as to which options shall have lapsed unexercised shall not be counted) granted before or after April 15, 1968, under the Qualified Stock Option Plan of Colt assumed by the Corporation, or (iii) options heretofore granted and originally exercisable for shares of Common Stock of Elox Corporation, a Michigan corporation, (herein called Elox), and now exercisable for shares of Common Stock of the Corporation, or (iv) any other options hereafter granted to employees of the Corporation or any subsidiary pursuant to the Qualified Stock Option Plan of Colt assumed by the Corporation or pursuant to any other option plan which shall have been approved by the stockholders of the Corporation or (v) the issuance of shares of Common Stock pursuant to any of the abovementioned options (as the number of shares subject thereto may be proportionately increased to give effect to any subdivision thereof or stock dividend thereon and proportionately decreased to give effect to any combination thereof subsequent to the Effective Date), or (vi) any issue or sale of shares of Common Stock to employees of the Corporation or any subsidiary pursuant to any incentive or compensation plan of the Corporation or any subsidiary.

(g) The shares of Series C Preferred shall not have any special voting powers in addition to the voting powers conferred upon the Serial Preferred Stock of all classes by the foregoing provisions of this Article Fourth and the special voting powers conferred upon the shares of Series C Preferred by the provisions of subsection (b) of this Section 4.17.

(h) If any proposed amendment of this Certificate of Incorporation would alter or change the voting powers, preferences or relative, participating, optional or other special rights, or the qualifications, limitations or restrictions thereof, of the Series C Preferred so as to affect the Series C Preferred adversely (without affecting adversely the Serial Preferred Stock of all other series at the time outstanding), then the affirmative vote of the holders of two-thirds of the aggregate number of shares of Series C Preferred at the time outstanding shall be necessary for the adoption thereof in addition to any other vote required by law.

4.18. The voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the fourth series of Serial Preferred Stock are as follows:

(a) The distinctive designation of such series is "\$4.25 Cumulative Preferred Stock, Convertible Series D" (herein called the Series D Preferred) and the number of shares which shall constitute such series is 782,633 shares.

(b) The dividend rate of the Series D Preferred shall be \$4.25 per share per annum; such dividends shall be cumulative; and October 1, 1968, shall be the date of cumulation from and after which such dividends shall accumulate if the Series D Preferred shall be issued prior to December 31, 1968, and the first day of the calendar quarter in which the Series D Preferred shall be issued shall be the date of cumulation from and after which such dividends shall accumulate if the Series D Preferred shall be issued subsequent to December 31, 1968. Holders of shares of Series D Preferred shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of cumulative cash dividends at said rate.

(c) The shares of Series D Preferred shall be redeemable at the option of the Corporation, in whole or in part, at any time and from time to time after December 31, 1973. The amount payable per share upon the exercise of such right to redeem shares of Series D Preferred shall be as follows:

If redeemed during 12 month period ending December 31	Redemption Price	If redeemed during 12 month period ending December 31	Redemption Price
1974	\$104.25	1979	\$101.50
1975	103.50	1980	101.00
1976	103.00	1981	100.50
1977	102.50	1982 (and thereafter)	100.00
1978	102.00		

plus, in each case, an amount equal to accrued dividends thereon to the date fixed for such redemption.

(d) Upon any voluntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series D Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any Junior Stock, (x) the amount of \$104.25 per share, if such liquidation, dissolution or winding up shall occur on or prior to December 31, 1973, or (y) the amount specified in subsection (c) of this Section 4.18 as at the time being payable per share (exclusive of accrued dividends) upon the exercise of the right of the Corporation to redeem shares of Series D Preferred, if such liquidation, dissolution or winding up shall occur after December 31, 1973, plus in each case an amount equal to accrued dividends thereon to such time. Upon any involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series D Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be

made to the holders of any Junior Stock, the amount of \$100 per share, plus an amount equal to accrued dividends thereon to such time.

(e) The shares of Series D Preferred shall not be entitled to the benefit of any purchase fund or sinking fund.

(f) Each share of Series D Preferred shall be convertible at the option of the holder thereof at any time, at the place and in the manner specified in Section 4.19, into one and thirty-five one hundredths (1.35) fully paid and nonassessable shares (calculated to the nearest $\frac{1}{100}$ of a share) of Common Stock, being equivalent to a conversion price of \$74.07407 per share (taking the Series D Preferred at \$100 per share); *provided, however*, that in case of the redemption of any shares of Series D Preferred, such right of conversion shall cease and terminate, as to the shares called for redemption, at the close of business on the fifth day prior to the date fixed for redemption, unless default shall be made in the payment of the redemption price. The price at which shares of Common Stock shall be deliverable in exchange for shares of Series D Preferred upon conversion thereof is hereinafter referred to as the "conversion price" of the Series D Preferred. The conversion price shall be subject to adjustment from time to time in certain instances as hereinafter in Section 4.19 provided.

Notwithstanding the provisions of subsection (d) of Section 4.19, no adjustment of the conversion price of the Series D Preferred shall be made pursuant to said subsection as a result of or in connection with (i) options granted prior to the Effective Date under the Restricted Stock Option Plan of Colt assumed by the Corporation, or (ii) options granted prior to the Effective Date under the Qualified Stock Option Plan of Colt assumed by the Corporation, or (iii) options granted prior to the Effective Date and originally exercisable for shares of Common Stock of Elox, and now exercisable for shares of Common Stock of the Corporation, or (iv) options granted prior to the Effective Date and originally exercisable for shares of Common Stock of Crucible Steel Corporation, a Delaware corporation, and now exercisable for shares of Series D Preferred and Common Stock of the Corporation, or (v) any other options granted subsequent to the Effective Date to employees of the Corporation or any subsidiary pursuant to the Qualified Stock Option Plan of Colt assumed by the Corporation or pursuant to any other option plan which shall have been approved by the stockholders of the Corporation, or (vi) the issuance of shares of Common Stock pursuant to any of the above mentioned options (as the number of shares subject thereto may be proportionately increased to give effect to any subdivision thereof or stock dividend thereon and proportionately decreased to give effect to any combination thereof subsequent to the Effective Date), or (vii) any issue or sale of shares of Common Stock in the treasury of the Corporation to employees of the Corporation or any subsidiary pursuant to any incentive or compensation plan of the Corporation or any subsidiary.

(g) The shares of Series D Preferred shall not have any special voting powers in addition to the voting powers conferred upon the Serial Preferred Stock of all classes by the foregoing provisions of this Article Fourth and the special voting powers conferred upon the shares of Series D Preferred by the provisions of subsection (h) of this Section 4.18.

(h) If any proposed amendment to this Certificate of Incorporation would alter or change the voting powers, preferences or relative, participating, optional or other special rights, or the qualifications, limitations or restrictions thereof, of the Series D Preferred so as to affect the Series D Preferred adversely (without affecting adversely the Serial Preferred Stock of all other series at the time outstanding), then the affirmative vote of the holders of two-thirds of the aggregate number of shares of Series D Preferred at the time outstanding shall be necessary for the adoption thereof in addition to any other vote required by law.

4.19. The following provisions shall be applicable to every conversion into Common Stock of shares of Series B Preferred, Series C Preferred and Series D Preferred (herein collectively called Convertible Preferred, which term shall include, where the context requires, shares of Series B Preferred or Series C Preferred or Series D Preferred, considered as a single series) and to every adjustment of the conversion price of shares of Convertible Preferred:

(a) Before any holder of shares of Convertible Preferred shall be entitled to convert the same into Common Stock, he shall surrender the certificate or certificates for such shares of Convertible Preferred at the office of the transfer agent for the Convertible Preferred located in the Borough of Manhattan, City and State of New York, or at such other place, if any, as the Board of Directors of the Corporation may determine, which certificate or certificates, if the Corporation shall so request, shall be duly endorsed to the Corporation or in blank or accompanied by proper instruments of transfer to the Corporation or in blank, and shall give written notice to the Corporation at said office that he elects so to convert said shares of Convertible Preferred, and shall state in writing therein the name or names in which he wishes the certificate or certificates for Common Stock to be issued. Every such notice of election to convert shall constitute a contract between the holder of such shares of Convertible Preferred and the Corporation, whereby the holder of such shares of Convertible Preferred shall be deemed to subscribe for the amount of Common Stock which he shall be entitled to receive upon such conversion, and, in satisfaction of such subscription, to deposit the shares of Convertible Preferred to be converted and to release the Corporation from all liability thereunder, and thereby the Corporation shall be deemed to agree that the amount paid to it for such shares of Convertible Preferred, together with the surrender of the certificate or certificates therefor and the extinguishment of liability thereon, shall constitute full payment of such subscription for Common Stock to be issued upon such conversion.

(b) The Corporation will, as soon as practicable after such deposit of certificates for shares of Convertible Preferred accompanied by the written notice and the statement above prescribed, issue and deliver at the office of said transfer agent to the person for whose account such shares of Convertible Preferred were so surrendered, or to his nominee or nominees, certificates for the number of full shares of Common Stock to which he shall be entitled as aforesaid, together with a cash adjustment of any fraction of a share as hereinafter stated, if not evenly convertible. Subject to the following provisions of this subsection, such conversion shall be deemed to have been made as of the date of such surrender of the shares of Convertible Preferred to be converted; and the person or persons entitled to receive the Common Stock issuable upon conversion of such shares of Convertible Preferred shall be treated for all purposes as the record holder or holders of such Common Stock on such date. The Corporation shall not be required to convert, and no surrender of shares of Convertible Preferred shall be effective for that purpose, while the stock transfer books of the Corporation are closed for any purpose provided by statute or the By-Laws of the Corporation; but the surrender of shares of Convertible Preferred for conversion during any period while such books are so closed shall become effective for conversion immediately upon the reopening of such books, as if the conversion had been made on the date such shares of Convertible Preferred were surrendered, and at the conversion price in effect at the date of such surrender.

(c) The Corporation shall not be required to issue any fractional shares of Common Stock upon conversion of shares of Convertible Preferred. If any fractional interest in a share of Common Stock shall be deliverable upon the conversion of any share or shares of Convertible Preferred, the Corporation shall purchase such fractional interest for an amount in cash (computed to the nearest cent) equal to the current market value of such fractional interest computed on the basis of the last reported sale price (or bid price if there be no sale) of the Common Stock on the New York Stock Exchange on the date of conversion, or on the principal market for the Common Stock on the date of conversion if the New York Stock Exchange is not such principal market.

(d) The conversion price of the shares of Convertible Preferred shall be subject to adjustment from time to time as follows:

(i) In case the Corporation shall at any time or from time to time issue or sell any shares of Common Stock, whether authorized and unissued or in the treasury of the Corporation (not including Common Stock issued upon conversion of (x) shares of Series A Preferred, Series B Preferred, Series C Preferred or Series D Preferred or (y) the 5 $\frac{3}{4}$ % Convertible Subordinated Debentures, due June 1, 1972, of Fairbanks, Morse & Co.), without consideration or for a consideration per share less than the conversion price in effect immediately prior to the time of such issue or sale, then forthwith upon such issue or sale said conversion price shall (until the time of another such issue or sale) be reduced to a price (calculated to the nearest cent) determined by dividing (1) an amount equal to the sum of (x) the number of shares of Common Stock outstanding immediately prior to such issue or sale, multiplied by the then existing conversion price, and (y) the consideration, if any, received by the Corporation upon such issue or sale, by (2) the total number of shares of Common Stock outstanding immediately after such issue or sale. For the purposes hereof, the number of shares of Common Stock outstanding, at any given time, shall not include shares in the treasury of the Corporation, but shall include shares issuable in respect of scrip certificates representing fractional interests with respect to shares of Common Stock (except that, in applying the provisions of this subsection to the Series C Preferred, shares of Common Stock in the treasury of the Corporation shall be treated as outstanding and shares issuable in respect of scrip certificates representing such fractional interests shall not be treated as outstanding).

For the purpose of this subparagraph (i) the following provisions shall also be applicable:

A. In case the Corporation shall in any manner offer any rights to subscribe for or to purchase shares of its Common Stock, or grant any options, other than to officers and employees of the Corporation or a subsidiary of the Corporation for incentive purposes within the limits set forth in whichever of Section 4.16, 4.17 or 4.18 of this Article Fourth shall be applicable, for the purchase of shares of Common Stock, at a price less than the conversion price in effect immediately prior to the time of the offering of such rights or the granting of such options, as the case may be, all shares of Common Stock which the holders of such rights or options shall be entitled to subscribe for or purchase pursuant to such rights or options shall be deemed to have been issued or sold as of the date of the offering of such rights or the granting of such options, as the case may be, and the minimum aggregate consideration named in such rights or options for the shares of Common Stock covered thereby, plus the consideration received by the Corporation for such rights or options, shall be deemed to be the consideration actually received by the Corporation (as of the date of the offering of such rights or the granting of such options, as the case may be) for the issue or sale of such shares.

B. In case the Corporation shall in any manner issue or sell any shares of any class (other than the Convertible Preferred) or obligations directly or indirectly convertible into or exchangeable for shares of Common Stock and the price per share for which shares of Common Stock are deliverable upon such conversion or exchange (determined by dividing (x) the total amount received or receivable by the Corporation in consideration of the issue or sale of such convertible shares or obligations, plus the minimum total amount of premiums, if any, payable to the Corporation upon conversion or exchange, by (y) the total maximum number of shares of Common Stock necessary to effect the conversion or exchange of all such convertible shares or obligations) shall be less than the conversion price in effect immediately prior to the time of such issue or sale, then such issue or sale shall be deemed to have been an issue or sale (as of the date of issue or sale of such convertible shares or obligations) of the total maximum number of shares of

Common Stock necessary to effect the exchange or conversion of all such convertible shares or obligations, and the gross amount received or receivable by the Corporation in consideration of the issue or sale of such convertible shares or obligations, plus the minimum aggregate amount of premiums, if any, payable to the Corporation upon exchange or conversion, shall be deemed to be the consideration actually received (as of the date of the issue or sale of such convertible shares or obligations) for the issue or sale of such shares of Common Stock.

C. In case any dividends on the Common Stock payable in Common Stock shall be declared or paid by the Corporation, the Common Stock so issued shall be deemed to have been issued without consideration. Any dividend or distribution referred to in this clause C shall be deemed to have been paid or made on the day following the date fixed for the determination of stockholders entitled to receive such dividend or distribution.

D. In determining the amount of consideration received by the Corporation for its Common Stock, securities convertible thereinto, or rights or options for the purchase thereof, no deduction shall be made for expenses or underwriting discounts or commissions. The Board of Directors of the Corporation shall determine the fair value of any consideration other than money received by the Corporation upon any such issue and similarly the Board of Directors of the Corporation shall, in case any of the foregoing securities are issued with other stock, securities or assets of the Corporation, determine what part of the consideration received therefor is applicable to the issue of the Common Stock, securities convertible thereinto or rights or options for the purchase thereof.

E. In case of the issue at any time of additional shares of Common Stock in payment of any dividend on any preferred stock of the Corporation, the Corporation shall be deemed to have received for such shares a consideration equal to the conversion price in effect at such time.

F. In the event that the conversion price shall have been adjusted by reason of the issuance by the Corporation of any rights, options or convertible securities referred to in the foregoing clauses A and B of this subparagraph (i), and any of such rights or options or conversion privileges of such convertible securities shall expire unexercised, the applicable conversion price shall again be adjusted to give effect only to such dilution as shall have resulted from the exercise or conversion of such rights, options or convertible securities.

(ii) In case the shares of Common Stock at any time outstanding shall be subdivided into a greater or combined into a lesser number of shares of Common Stock (whether with or without par value), the number of shares of Common Stock into which each share of Convertible Preferred shall thereafter be convertible (subject to further adjustment as herein provided) shall be proportionately increased or decreased, as the case may be, and the conversion price shall be correspondingly decreased or increased, as the case may be, to produce such result.

(iii) Whenever the conversion price shall be adjusted as required by the provisions of this subsection, the Corporation shall forthwith file with the transfer agent for the shares of Convertible Preferred in the Borough of Manhattan, City and State of New York, and with the transfer agents for the Common Stock, a statement signed by the President, or one of the Vice Presidents, of the Corporation and by its Treasurer or an Assistant Treasurer, stating the adjusted conversion price determined as provided in this subsection. Such statement shall show in reasonable detail the facts requiring such adjustment, including a statement of the consideration received by the Corporation for any additional stock issued or sold. Where

appropriate, such notice may be given in advance and included as a part of a notice required to be mailed and published under the provisions of subparagraph (iv) of this subsection.

(iv) If at any time the Corporation shall pay any dividend or make any other distribution upon its Common Stock other than a dividend payable in cash or in Common Stock, or shall offer to the holders of its Common Stock for subscription or purchase by them any shares of stock of any class or any other rights, or take any action contemplated by subparagraph (v) of this subsection, the Corporation shall cause at least ten days' prior notice to be mailed to the transfer agent for the shares of the Convertible Preferred in the Borough of Manhattan, City and State of New York, and to the holders of record of the outstanding shares of Convertible Preferred on the date on which (x) a record is to be taken for the purpose of such dividend, distribution or rights, or, if a record is not to be taken, the date as of which the holders of record of Common Stock to be entitled to such dividend, distribution or rights are to be determined, or (y) the reclassification, change, consolidation, merger, sale or transfer referred to in subparagraph (v) of this subsection is expected to become effective, and the date as of which it is expected that holders of record of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reclassification, change, consolidation, merger, sale or transfer. Failure to give such notice, or any defect therein, shall not affect the legality or validity of any dividend, distribution or right.

(v) In case of any reclassification or change of outstanding shares of Common Stock issuable upon conversion of the shares of Convertible Preferred (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination), or in case of any consolidation or merger of the Corporation with or into another corporation (other than a merger with another corporation in which the Corporation is the continuing corporation and which does not result in any reclassification or change (other than a change as aforesaid) of outstanding shares of Common Stock issuable upon conversion of the shares of Convertible Preferred), or in case of any sale or transfer to another corporation of the property of the Corporation as an entirety or substantially as an entirety, each share of Convertible Preferred shall thereafter be convertible into the number of shares of stock or other securities of the Corporation, or of the successor corporation resulting from such consolidation or merger, or of the acquiring corporation in the case of such sale or transfer, as the case may be, to which the Common Stock of the Corporation, deliverable upon conversion of such share of Convertible Preferred, would have been entitled upon such reclassification or change, consolidation or merger, or sale or transfer; and, in any event, appropriate adjustment (as determined by the Board of Directors) shall be made in the application of the provisions herein set forth with respect to rights and interest thereafter of the holders of shares of Convertible Preferred, to the end that the provisions set forth herein (including the specified changes in and other adjustments of the conversion price) shall thereafter be applicable, as near as reasonably may be, in relation to any shares or other property thereafter deliverable upon the conversion of shares of Convertible Preferred.

(e) The issue of stock certificates on conversions of shares of Convertible Preferred shall be made without charge to the converting holder thereof for any tax in respect of the issue thereof. The Corporation shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares in any name other than that of the holder of any shares of Convertible Preferred converted and the Corporation shall not be required to issue or deliver any such stock certificate, unless and until the person or persons requesting the issue thereof shall have paid to the Corporation the amount of such tax or shall have established to its satisfaction that such tax has been paid.

(f) Upon any conversion of shares of Convertible Preferred, the shares of Convertible Preferred so converted shall be retired and canceled, and the number of shares of Convertible Pre-

ferred and of Serial Preferred Stock which the Corporation shall have authority to issue shall be decreased by the number of shares of Convertible Preferred so converted. The Corporation shall at all times reserve and keep available out of its treasury stock and/or authorized but unissued stock, for the purpose of effecting the conversion of the shares of Convertible Preferred, such number of such shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Convertible Preferred; and if at any time such number of such shares of Common Stock shall not be sufficient to effect the conversion of all outstanding shares of Convertible Preferred at the conversion price then in effect, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(g) No adjustment of the conversion price of the Convertible Preferred shall be made unless, by reason of the happening of any one or more of the events specified in this Section 4.19, the conversion price then in effect shall be changed by fifty cents or more, but any adjustment that would otherwise be required then to be made shall be carried forward and shall be made at the time of and together with any subsequent adjustment which, together with any adjustment or adjustments so carried forward, amounts to fifty cents or more per share of Common Stock. Upon conversion, the Corporation shall not make any payment or adjustment on account of dividends accrued or in arrears on the shares of Convertible Preferred surrendered for conversion.

4.20. The voting powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations or restrictions thereon, of the fifth series of Serial Preferred Stock are as follows:

(a) The distinctive designation of such series is "\$2.75 Cumulative Preferred Stock, Series E" (herein called the Series E Preferred) and the number of shares which shall constitute such series is 68,046 shares.

(b) The dividend rate of the Series E Preferred shall be \$2.75 per share per annum; such dividends shall be cumulative; and September 16, 1968, shall be the date of cumulation from and after which such dividends shall accumulate if the Series E Preferred shall be issued prior to December 15, 1968, and the 16th day of the last month of the calendar quarter immediately prior to which the Series E Preferred shall be issued shall be the date of cumulation from and after which such dividends shall accumulate if the Series E Preferred shall be issued subsequent to December 14, 1968, unless the Series E Preferred shall be issued during the last month of a calendar quarter on or after the 15th day and on or before the last day of such month, in which case, the 16th day of such month shall be the date of cumulation from and after which such dividends shall accumulate. Holders of shares of Series E Preferred shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of cumulative cash dividends at said rate.

(c) The shares of Series E Preferred shall be redeemable at the option of the Corporation, in whole or in part, at any time and from time to time after October 8, 1970. The amount payable per share upon the exercise of such right to redeem shares of Series E Preferred shall be \$55.00 per share plus an amount equal to accrued dividends thereon to the date fixed for such redemption.

(d) Upon any voluntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series E Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any Junior Stock, the amount of \$55.00 per share, plus an amount equal to accrued dividends thereon to such time. Upon any involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series E Preferred shall be entitled to be paid, at the time thereof, in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any Junior Stock, the amount of \$55.00 per share, plus an amount equal to accrued dividends thereon to such time.

(e) The shares of Series E Preferred shall not be entitled to the benefit of any purchase fund or sinking fund.

(f) The shares of Series E Preferred shall not be convertible

(g) The shares of Series E Preferred shall not have any special voting powers in addition to the voting powers conferred upon the Serial Preferred Stock of all classes by the foregoing provisions of this Article Fourth and the special voting powers conferred upon the shares of Series E Preferred by the provisions of subsection (h) of this Section 4.20.

(h) If any proposed amendment of the Certificate of Incorporation, as amended, of this Corporation would alter or change the voting powers, preferences or relative, participating, optional or other special rights, or the qualifications, limitations or restrictions thereof, of the Series E Preferred so as to affect the Series E Preferred adversely (without affecting adversely the Serial Preferred Stock of all other series at the time outstanding), then the affirmative vote of the holders of two-thirds of the aggregate number of shares of Series E Preferred at the time outstanding shall be necessary for the adoption thereof in addition to any other vote required by law.

(i) In the event that none of the shares of Series E Preferred Stock shall be issued within six months of the date of filing of this Certificate of Incorporation, then, in that event and notwithstanding any of the other provisions of this Certificate of Incorporation, the fifth series of Serial Preferred Stock designated "\$2.75 Cumulative Preferred Stock, Series E" provided for in this Section 4.20 shall be entirely canceled as though this Section 4.20 had never been a part of this Certificate of Incorporation, and the 68,046 shares of Series E Preferred Stock, being the whole number of such shares designated to constitute such series, shall be restored to the status as shares of a class designated "Serial Preferred Stock" which have not been designated as a part of any specific series of Serial Preferred Stock, being the same status which such shares would have had, had this Section 4.20 never been a part of this Certificate of Incorporation.

4.21. Upon any issue for money after the Effective Date of any authorized but unissued Common Stock or of any authorized but unissued security convertible into or carrying options or warrants evidencing the right to purchase or otherwise acquire authorized but unissued shares of Common Stock of the Corporation, the same shall first be offered *pro rata* to the holders of the then outstanding shares of Common Stock, and the time within which such pre-emptive rights may be exercised shall not be limited to less than ten days after mailing notice to the holders of Common Stock that such stock rights are available and may be exercised; *provided, however*, that no owner of Common Stock shall have any pre-emptive or other right to subscribe for, purchase, or receive any proportionate or other share of any new or additional shares of Common Stock, or any securities convertible into or carrying options or warrants evidencing the right to purchase or otherwise acquire shares of Common Stock

(i) which shall be issued and sold pursuant to any stock option or stock purchase plan for officers, key executives or employees of the Corporation, which stock option or stock purchase plan shall either have been approved at a stockholders' meeting duly called and regularly held or have been granted pursuant to a plan in effect on or prior to the Effective Date; or

(ii) which shall be issued to the holders of any security convertible into or carrying options or warrants evidencing the right to purchase or otherwise acquire shares of Common Stock of the Corporation pursuant to the exercise of such conversion rights or the exercise of such options or warrants.

No holder of Common Stock shall have any pre-emptive or any other right to subscribe for, purchase or receive any fractional share of any new or additional share of Common Stock or to subscribe for a fraction of a unit of any security convertible into or carrying options or warrants evidencing the right to purchase or otherwise acquire shares of Common Stock. No holder of Common Stock shall have any pre-emptive or any other right to subscribe for, purchase or receive any share of Common Stock which shall have been reacquired by the Corporation and held in its treasury.

ARTICLE FIFTH

The names and mailing addresses of the directors of the Corporation who, subject to the provisions of the By-Laws of the Corporation and the laws of the State of Delaware, shall hold office until the election and qualification of their respective successors, are as follows:

<u>Name</u>	<u>Mailing Address</u>
William D. Ford	1290 Avenue of the Americas New York, N. Y. 10019
George R. Harrison	Massachusetts Institute of Technology Cambridge, Massachusetts 02139
George C. Lessner	Parkade Office Building, 364 Middle Turnpike West Manchester, Connecticut 06040
John C. Lobb	Four Gateway Center, Pittsburgh, Pennsylvania 15222
David I. Margolis	1290 Avenue of the Americas New York, N. Y. 10019
Alva W. Phelps	100 Oxford Road Kenilworth, Illinois 60043
William H. Rea	One Oliver Plaza Pittsburgh, Pennsylvania 15222
Matthew B. Ridgway	918 Waldheim Road West Fox Chapel Pittsburgh, Pennsylvania 15215
William S. Schwab	Connecticut Mutual Life Building Washington at Dearborn Street Chicago, Illinois 60602
George A. Strichman	1290 Avenue of the Americas New York, N. Y. 10019
Max E. Wildman	4 North Michigan Avenue Chicago, Illinois 60602

ARTICLE SIXTH

Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of creditors, and/or the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

ARTICLE SEVENTH

The number of directors of the Corporation shall be fixed from time to time by, or in the manner provided in, the By-Laws and may be increased or decreased as therein provided, but the number thereof shall not be less than three.

ARTICLE EIGHTH

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized:

- (1) To make, alter or repeal the By-Laws of the Corporation.
- (2) To authorize and cause to be executed mortgages and liens upon the real and personal property of the Corporation.
- (3) To set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and to abolish any such reserve in the manner in which it was created.
- (4) By a majority of the whole Board, to designate one or more committees, each committee to consist of two or more of the directors of the Corporation. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Any such committee, to the extent provided in the resolution or in the By-Laws of the Corporation, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it: *provided, however*, the By-Laws may provide that in the absence or disqualification of any member of such committee or committees, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.
- (5) When and as authorized by the affirmative vote of the holders of a majority of the stock issued and outstanding having voting power given at a stockholders' meeting duly called upon such notice as is required by statute, or when authorized by the written consent of the holders of a majority of the voting stock issued and outstanding, to sell, lease or exchange all or substantially all of the property and assets of the Corporation, including its good will and its corporate franchises, upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property including shares of stock in, and/or other securities of, any other corporation or corporations, as its Board of Directors shall deem expedient and for the best interests of the Corporation.
- (6) From time to time to fix and determine and to vary the amount to be reserved as working capital of the Corporation and, before payment of any dividends or making any distribution of profits, it may set aside out of the surplus or net profits of the Corporation such sum or sums as it may from time to time in its absolute discretion think proper, whether as a reserve fund to meet contingencies or for the equalizing of dividends or for repairing or maintaining any property of the Corporation or for such other corporate purposes as the Board of Directors shall think conducive to the interests of the Corporation, subject only to such limitations as the By-Laws of the Corporation may from time to time impose, and the Board of Directors may also increase, decrease and/or abolish any such reserve or reserves; and to make and determine the use and disposition of any surplus or net profits over and above the capital of the Corporation.

ARTICLE NINTH

No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or a committee thereof which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose, if:

(1) The material facts as to his interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board or committee in good faith authorizes the contract or transaction by a vote sufficient for such purpose without counting the vote of the interested director or directors; or

(2) The material facts as to his interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or

(3) The contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof, or the stockholders.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

ARTICLE TENTH

Meetings of stockholders may be held within or without the State of Delaware, as the By-Laws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the By-Laws of the Corporation. Elections of directors need not be by written ballot unless the By-Laws of the Corporation shall so provide.

ARTICLE ELEVENTH

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

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Filed in the Department of State on the 17th day
of October, A. D. 1968.



Secretary of the Commonwealth

fmk

Commonwealth of Pennsylvania

3-1-68.32 954



DEPARTMENT OF STATE

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, In and by the Business Corporation Law, approved the fifth day of May, Anno Domini one thousand nine hundred and thirty-three, P. L. 364, as amended, the Department of State is authorized and required to issue a

CERTIFICATE OF CONSOLIDATION

evidencing the consolidation of two or more corporations into a new corporation to be formed under the law or laws of the jurisdiction under which the foreign corporation was formed:

AND WHEREAS, The stipulations and conditions of that law relating to the consolidation of such business corporations have been fully complied with by COLT INDUSTRIES INC, a corporation organized and existing under the laws of Pennsylvania, and CRUCIBLE STEEL CORPORATION, a Delaware corporation.

IT IS THEREFORE, CERTIFIED, That from the Articles of Consolidation filed with the Department of State, it appears that COLT INDUSTRIES INC, the Pennsylvania corporation, and CRUCIBLE STEEL CORPORATION, the Delaware corporation, have consolidated forming a new corporation under the name, style and title of

COLT INDUSTRIES INC, (a Delaware corporation)

THEREFORE, KNOW YE, That subject to the Constitution of this Commonwealth, and under authority of the Business Corporation Law of May 5, 1933, P. L. 364, as amended, I DO BY THESE PRESENTS, which I have caused to be sealed with the Great Seal of the Commonwealth, hereby declare that upon the date when said consolidation becomes effective in the State of Delaware, the corporate franchises of COLT INDUSTRIES INC, the Pennsylvania corporation, shall be extinguished forever, and COLT INDUSTRIES INC, a Delaware corporation shall be the consolidated corporation.



GIVEN under my Hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this 14th day of October, in the year of our Lord one thousand nine hundred and sixty-eight and of the Commonwealth the one hundred and ninety-third.

Louis J. Kelly, Jr.

Secretary of the Commonwealth